

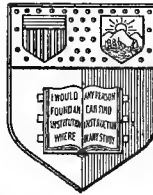
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CHARTER
OF THE
CITY OF AUBURN

Chapter 438, Laws of the State of New York, 1920
as Amended by Chapter 323, Laws of 1921

Became a Law May 3, 1920



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CHARTER

OF THE

CITY OF AUBURN

Chapter 438, Laws of the State of New York, 1920,
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ARTICLE I.

INCORPORATION AND BOUNDARIES.

Section 1. The citizens of the state of New York, from time to time inhabitants of that part of the county of Cayuga, included within the city of Auburn, as the same is now constituted and bounded, are, and are continued, a municipal corporation in perpetuity under the name of "The City of Auburn." The territory of such city shall continue to be, and to comprise, and is, all that part of the county of Cayuga embraced at the time of the adoption of this act within the city of Auburn, and bounded north by Throop and Sennett, east by Sennett and Owasco, south by Owasco and Fleming, and west by Fleming and Aurelius.

§ 2. Said corporation, by the name of The City of Auburn, may sue, and be sued, make and use a common seal, take by gift, grant and purchase any real and personal property, or either, whether within or without the corporate limits, and hold, use and convey the same, or any part thereof, as the purposes of such corporation may require, and is vested with, and has power to hold and convey, all property now owned by said city of Auburn; and may have and exercise such other powers, as are conferred, granted, or provided herein or otherwise by law for such cities.

§ 3. The said city as now constituted and bounded shall be divided into ten wards as follows:

First ward. All that part of said city lying south of the center of Genesee street, and east of the center of Owasco river, shall be the first ward.

Second ward. All that part of said city lying west of the center of the Owasco river, south of the center of Genesee street, east of the center of William street to its junction with South street and thence east of the center of South street to the south line of the city, shall be the second ward.

Third ward. All that part of said city lying south of the center of the Owasco river, north of the center of Genesee street and east of the center of Washington street, shall be the third ward.

Fourth ward. All that part of said city lying west of the center of State street, north of the center of the Owasco river, east of the center of Washington street continued to Grant street, north of the center of Grant street to a line running to the center of Washington street, and east of the center of Washington street to the north line of the city, shall be the fourth ward.

Fifth ward. All that part of said city lying west of the center of North street, north of the center of the Owasco river, and east of the center of State street, shall be the fifth ward.

Sixth ward. All that part of said city lying west of the center of Grant avenue to its junction with Franklin street; thence north of the center of Franklin street, west of a line running from the center of Franklin street, south between the city hall building and engine house to the center of the Owasco river, north of the center of Owasco river, and east of the center of North street to the north line of the city, shall be the sixth ward.

Seventh ward. All that part of said city lying north of the center of Aurelius avenue, north of the center of Wall street, west of the center of Washington street to Grant street, south of the center of Grant street to a line running to the center of Washington street, and west of the center of Washington street to the north line of the city, shall be the seventh ward.

Eighth ward. All that part of said city lying north of the center of Genesee street, west of the center of Washington street, south of the center of Wall street, and south of the center of Aurelius avenue to the west line of the city, shall be the eighth ward.

Ninth ward. All that part of said city lying south of the center of Genesee street, west of the center of William street to its junction with South street and thence west of the center of South street to the south line of the city, shall be the ninth ward.

Tenth ward. All that part of said city lying east of the center of Grant avenue to its junction with Franklin street; thence south of the center of Franklin street, east of a line running from the center of Franklin street south, between the city hall building and engine house to the center of the

Owasco river, north of the center of the Owasco river, and north of the center of Genesee street, shall be the tenth ward.

ARTICLE II.

OFFICERS, POWERS AND DUTIES.

§ 4. The city of Auburn having adopted the simplified form of government, defined as Plan C under the optional city government law, known as chapter four hundred and forty-four of the laws of nineteen hundred and fourteen, the elective officers of such city are a mayor, four councilmen, a recorder, a city judge, and a justice of the peace, all of whom shall be elected by the qualified voters of all of the city; and ten supervisors to be elected, one from each of the ten wards of the city by the qualified voters of each such ward. All such elective officers shall at the time of nomination be citizens of the United States and residents of the city. The removal of any such officer from the city during his term of office shall render the office held by him vacant.

§ 5. The terms of office of the mayor and councilmen, hereafter elected, shall be four years each. The terms of office of the present mayor, Adam P. Burkhart, and councilmen William B. Haeffner and Frank J. Schell shall extend to the first day of January, nineteen hundred and twenty-four. The terms of the present councilmen Rob Roy McCully and Patrick D. Conway shall extend to the first day of January, nineteen hundred and twenty-two. The terms of office of the recorder, city judge, and justice of the peace, hereafter elected, shall be four years. The terms of office of the present recorder, city judge and justice of the peace, shall extend to the first day of January, nineteen hundred and twenty-four. The term of each supervisor hereafter elected shall be two years. The terms of office of the present supervisors shall extend to the first day of January, nineteen hundred and twenty-two. The terms of all such elective officers shall begin on the first day of January, following their election.

§ 6. The provisions of law relating to general elections shall, so far as applicable, apply to and govern the nomination and election of all elective officers of the city, and the council shall have power, and it shall be its duty, to see that such provisions of law are observed in such election. On Tuesday next following the general election at which candidates for any elective office of the city have been voted for,

the council shall convene at its usual place of meeting at eight o'clock in the evening, to canvass such vote, and may adjourn from time to time for such purpose. The city clerk shall produce the statement of votes cast, filed with him by the inspectors of election, and the council shall ascertain, declare, and certify in the manner prescribed by law who have been elected to the various city offices voted for. The certificate made by the council shall be in duplicate, and one of such certificates shall be filed in the office of the clerk of the county of Cayuga, and the other in the office of the city clerk. The city clerk, thereupon, forthwith shall notify every person, certified to have been elected, of his election.

§ 7. The mayor and the four councilmen shall constitute the council of the city of Auburn, in which is vested all the legislative powers of the city however conferred or possessed. As such council, they shall possess all the powers and perform all the duties provided in the said optional city government law for the council under Plan C thereof, in other general statutes of the state, in this act, and in any other special or local act relating to the city of Auburn; and shall have power by ordinance or resolution to carry into force and effect all the powers belonging to, or conferred upon, the city, or the council, by general or local law, or otherwise. They shall receive the salary provided by such optional city government law for mayor and councilmen, under Plan C thereof.

§ 8. Regular meetings of the council shall be held weekly at a time and place to be fixed by ordinance. Special meetings may be held at any time on unanimous consent, or may be called at any time by any number upon two days' notice. Such call shall be signed and immediately filed with the city clerk. The council shall have power at any of its meetings to adjourn to any time and place it may deem proper. The council may adopt rules governing its proceedings and provide for the enforcement thereof.

§ 9. The council shall appoint a city manager who shall possess the powers and perform the duties provided in and by said optional city government law, other general laws of the state, and the ordinances of the council of the city. He shall hold office during the pleasure of the council and receive the compensation fixed by the council.

§ 10. The council shall appoint a city clerk, and three civil service commissioners; and may appoint such other officers as may be provided in such optional city government law. The city clerk shall have such powers and perform such

duties as are prescribed by said optional city government law, and otherwise by law, and as the council may from time to time prescribe. He shall hold office during the pleasure of the council and receive such salary as shall be fixed by the council.

§ 11. At the expiration of the term of each of the present civil service commissioners, there shall be appointed by the council a civil service commissioner to serve for six years. The salary of such commissioners shall be fixed by the council of the city. Such civil service commissioners shall have the powers and perform the duties imposed by law on civil service commissioners. Not more than two members of the commission shall be adherents of the same political party. Any civil service commissioner may be removed at any time by the unanimous vote of the council by resolution stating the reason for such removal, and after such commissioner has been given an opportunity of making an explanation.

§ 12. The council may, from time to time, determine and provide what other city officers and employees are necessary for the administration of the city, and the same shall be appointed by the city manager. Any such officer or employee may be removed by the city manager at any time. Each such appointment and removal shall be reported to the council by the city manager at the next meeting thereof following such appointment or removal.

§ 13. The council may, from time to time, as it deems it advisable, abolish, change, or consolidate any office or position created or provided for by ordinance of the council, and determine whether the continuance of any such office or position is essential. It may by ordinance authorize the appointment of deputies, assistants, or clerks, to any officer.

§ 14. The acceptance by any officer of the city of any other city office shall vacate his first office.

§ 15. Any officer or employee of the city who shall have resigned, or shall have been removed from office, or whose term of office shall have expired, shall deliver to the city manager forthwith all property, papers and effects of every description in his possession, or under his control, which belong to the city, or which appertain to the office held by him. In case of the resignation or removal of the city manager, he shall forthwith deliver all like property, papers and effects to the mayor.

§ 16. The council may by ordinance creating or continuing the various other offices in the city define and state the powers of each such officer, and the duties to be performed,

which said powers and duties may, from time to time, be changed, amended or otherwise modified as the council may deem advisable.

§ 17. In addition to the powers and duties conferred or imposed upon any officer by this act, each officer and employee shall perform such duties, exercise such functions and have such powers as are conferred or imposed by law upon such officers generally performing like duties; and shall have such additional powers and perform such additional duties as may be conferred or imposed by ordinance of the council.

§ 18. The council shall fix the salary or compensation of all persons in the service of the city, and the time of payment thereof, except persons in the employ of the board of education. It may authorize the city manager to fix the salaries of laborers necessary or essential in his judgment in the various departments of the city.

§ 19. No salaried officer of the city shall have or receive to his own use any compensation or fees for services pertaining directly or indirectly to the duties of his office, in addition to his salary; and all perquisites, compensation and fees paid to, or received by, any such officer for services pertaining directly or indirectly to his office, other than his salary received from the city, shall be the property of the city, and shall be paid by the officer receiving the same into the city treasury.

§ 20. No member of the council or officer or employee of the city shall be pecuniarily interested in any contract, directly or indirectly, in which the city is a party, nor furnish for pay or compensation, directly or indirectly to the city for its use, any goods, wares, merchandise, labor, materials or supplies, nor be interested, directly or indirectly, in any bill or claim, under the penalty of loss of his claim.

§ 21. Every supervisor shall be a resident elector of the ward in which he is elected. His removal from such ward during the term of office shall render the office held by him vacant. The supervisors elected under this act shall be members of the board of supervisors of the county of Cayuga, and shall have the same powers and perform the duties of supervisors of town.

§ 22. Every officer shall before entering upon the discharge of his duties take and file in the office of the city clerk the constitutional oath of office. Any officer may resign at any time by filing his written resignation with the city clerk.

§ 23. The council may require any officer or employee of the city before assuming his duties to execute a bond to the

city in such sum as it may fix, to be approved as to execution and sufficiency of surety by the city manager, excepting the bond of the city manager, which shall be approved by the mayor. When so approved such bonds shall be filed in the office of the city clerk. All officers or employees may, from time to time, be required to furnish additional or new bonds. The council may in its discretion provide for the payment of the premium upon such official bonds.

§24. Any vacancy in the office of mayor or councilman shall be filled as prescribed by the said optional city government law. Any vacancy in any other elective office shall be temporarily filled by appointment of the council. Such temporary appointment shall continue in effect until the first day of January next following the next general election held after such appointment. At the next general election following any such vacancy in an elective office, a successor shall be elected to serve the unexpired portion of the term for which the vacating officer was elected, or as herein fixed, unless such term shall expire on or before the first day of January next following such general election, in which case such successor shall be elected for the full term.

§ 25. Whenever the mayor shall be temporarily unable for any cause to perform the duties of his office, the council may appoint one of its members to exercise the powers and perform the duties of the mayor during such absence or disability. Should any appointive officer be temporarily unable for any cause to perform his duties, the body or the officer having the power of original appointment may make a temporary appointment of some person to act until such official shall resume his duties.

§ 26. In addition to all other powers conferred by law, the city of Auburn, and the council of the city, on its behalf, shall have power:

1. To contract and be contracted with, and to institute, maintain and defend any action or proceeding in any court.

2. To take, purchase, acquire, lease, and hold real and personal property, or either, within or without the corporate limits, for any public or municipal purpose, and to sell, convey and lease the same, or any part thereof; to provide for the management and control of such property, and designate the particular purpose to which it shall be devoted.

3. To take by gift, grant, or devise, and to hold and administer, real and personal property, or either, within or without the corporate limits, absolutely or in trust, for any public

or municipal purpose, upon such terms as may be prescribed by the grantor or donor and accepted by the city.

4. Subject to the general provisions of law, to become indebted for any municipal purpose, and to issue therefor the obligations of the city, and to determine upon the form, terms, conditions, and duration thereof; to pledge the faith and credit of the city for the payment of principal and interest thereof, or to make the same payable out of, or charge or lien upon, specific property or revenues; to provide, establish, and maintain sinking funds for the liquidation of any bonded debt; and to provide for the refunding of any bonds or indebtedness, other than temporary bonds issued in anticipation of the collection of taxes.

5. To pay any claim due or owing by the city, or a binding obligation upon it; to pay any judgment recovered against the city, and to issue and sell bonds of the city therefor; to pay or compromise any claim equitably payable by the city although not a binding legal obligation.

6. Subject to the provisions of general law, and of this act, to assess, levy and collect taxes on real and personal property within the city, for the various purposes authorized or contemplated by this act, and otherwise by law; to assess, levy and collect, as tax, the charges, or cost, of all local improvement; if not otherwise provided herein, to provide for the payment of the cost of any local improvement to or for the benefit of any property by assessment against such property, and for the payment of such assessment; to declare, and provide, that the cost of all local improvements, or of any other work or benefit to or for abutting property, as determined by it, shall be a lien upon the property, which, if not paid, may be added to the city tax roll, and collected as delinquent taxes by sale, action, or foreclosure.

7. Subject to the provisions of law, to provide for making assessments of property, and to provide and establish a uniform system or method thereof; to provide for, and have made, maps of the city showing the various streets, highways, lots and parcels, or any part of them.

8. To regulate the method and manner of transacting the city's business and affairs; to provide, establish and maintain a system of records and accounts; and to provide and establish a uniform system of examination and audit of claims.

9. To grant rights and franchises, or permission, to use the streets, highways and public places, or any part thereof, or the space above, or under them, or any of them, for any speci-

fied purpose, upon such terms and conditions as it may deem proper, and as may be permitted by law.

10. To acquire by condemnation proceedings, conducted as provided by law, any lands or rights needed or required for any municipal purpose.

11. To determine the number of commissioners of deeds for the city, and direct their appointment.

12. To pave, re-pave, surface and re-surface streets, highways and public places, to provide for the payment thereof in whole or in part, as a general city charge, or partly as a general city charge and partly as a local assessment on abutting property, as in this act provided; to open, extend, widen and straighten streets, highways and lanes, to acquire necessary lands and rights therefor, and to provide for the determination and assessment of the cost thereof upon the real property benefited, as in this act provided; to build, cover with hard material, macadamize and improve other than as hereinbefore provided, and to repair, level, grade, alter, clean and maintain streets, highways, alleys, lanes and squares, and to sprinkle, flush, cover with a dust allaying substance, and oil such streets, highways, alleys, lanes and squares, or any part thereof, and to provide for the payment thereof as a general charge.

13. To construct, build, flag, surface, re-surface, alter, repair, grade, re-grade, maintain, care for, and clean sidewalks, curbs and gutters in public streets; to direct and order, as herein provided, any such work, or improvement, to be done by the property owner, or occupant, and on default, to have the same done by the city and charged, or assessed, against the abutting property; to regulate and prescribe the grade, width, materials, construction and other specifications of any such work; at the request of the property owner, to have any such work or improvement done by the city, or by contract, to pay for the same from city funds, and assess such total cost against the property benefited; to provide that the cost of any such work or improvement be paid at once, or in annual installments; to issue bonds of the city to defray the expense of any such work or improvement.

14. To designate streets by name, and houses and lots by number, and from time to time to change such designations and numbers; to require owners and occupants of lots and buildings to place thereon or in a prominent place the designated number.

15. To require the owners and occupants of lots abutting on streets to keep the sidewalks in front of such premises

free and clear of all snow, ice, dirt, and other obstruction, and to remove from such sidewalk any dirt, rubbish, snow or ice, which may be thereon, and all accumulations of dirt and rubbish between the sidewalk and the center of the street; to require such owner and occupant to keep such walk in a safe condition for public travel and to repair and remedy all defects; to require the owners and occupants of lots fronting upon streets to keep the grass, and grass plats, along the traveled portions of streets, cut and trimmed, to cut all noxious weeds, long grass, and other rank growths, and to erect barriers, or safe-guards, along the line of such streets at dangerous points.

16. To lay out, establish, maintain, build, acquire, operate and continue subways and underground conduits for wires and cables; to control, manage, lease, and operate all such subways and underground conduits now owned by the city or hereafter acquired; to regulate and control the occupancy thereof; to provide rules, regulations and by-laws for the management, care and use of such subways, conduits and appurtenances thereto, and to establish and promulgate rates and rentals therefor, and to make and execute leases covering the use and occupancy thereof; to prohibit and restrain any improper or unwarranted interference with such subways, conduits and appurtenances, including manholes and manhole covers; to control and regulate, or cause to be removed, all overhead telegraph, electric light, power and telephone wires, cables and other electrical conductors, and poles in or adjacent to all streets, or parts of streets, in which said subways, or conduits furnish adequate facilities for carrying such wires and cables, and to direct and require that all such wires, cables and other overhead electrical conductors be placed in such subways or conduits.

17. To lay out, establish, build, re-build, continue, operate, control, alter, repair, clean, extend, discontinue and maintain sewers, drains, laterals, and sewage disposal plants, and to provide for the cost thereof as in this subdivision provided; to create, continue, alter, amend, and change sewer districts, and make, direct and provide that the cost of building and re-building sewers and drains therein shall be paid by assessment upon the real property of such district, as in this act provided; to make, direct and provide that the cost of building and re-building all sewers and drains, which are outside of sewer districts shall be paid by local assessment upon the property thereby benefited in proportion to the benefits received; to make, direct and provide that the cost

of building and re-building sewage disposal plants and the cost of maintaining, operating and cleaning all sewage disposal plants and all public sewers and drains, whether within a sewer district or not, be a general city charge; to operate, manage and control all public sewers, drains, sewer systems and sewage disposal plants, whether built pursuant to the provisions of special laws, or not; to provide that sewers intended and designed for storm or surface water exclusively may be a general city charge, whether situated in sewer districts or not, anything in this act to the contrary notwithstanding, and to direct the issue and sale of bonds to defray the expense thereof.

18. To regulate, control and prohibit the construction, maintenance and use of private sewers and drains in public streets, and to order the discontinuance and removal thereof; to prescribe terms and conditions upon which such sewers and drains may be constructed, continued and used; to require the same to be kept in proper and sanitary condition by the owners and users.

19. To lay out, establish, construct, alter, repair, continue, discontinue, operate, build and maintain, public buildings, fire houses, police stations, parks, playgrounds, markets, public places, bridges, and other structures deemed needful or convenient for public use.

20. To provide for the leasing of buildings, or parts thereof, for city purposes, and to make such leases.

21. To provide for the planting, trimming, protecting, removing and preserving of trees in streets, parks and other public places of the city; to prohibit any injury, defacement, mutilation, or destruction of trees, shrubs, or grass plots in public streets or places, or park or playground equipment.

22. To provide for a city planning commission, with advisory powers in reference to public improvements, streets, parks and other matters of general welfare, and to provide for the expense thereof.

23. To furnish and supply the city of Auburn, and the people thereof, with a sufficient quantity of good and wholesome water, and for that purpose to take over, manage, operate, continue, discontinue and extend the present water system of the city, with all of the plant, equipment, mains, machinery, apparatus, and devices, used, employed, owned or controlled by the city through its water department in the supplying of the city with water, including the filtration plant, and to take and conduct water, and continue to take and conduct water, from Owasco lake through the pipes

and mains now laid and in use, or hereafter laid, or used, to the city, subject to the rights and obligations specified in chapter three hundred and forty-one of the laws of nineteen hundred and three; to enlarge, increase, contract and extend such system, and to provide therefore machinery, pumps, mains and other necessary equipment, supplies, devices and apparatus; to employ all labor and help necessary in supplying such water; to furnish water to owners and occupants of property lying outside of, but adjacent to the city of Auburn; to buy, sell, acquire by condemnation or otherwise, all rights and property needed, or essential, in the maintenance, control and extension of such system, and to sell, lease and convey the same, or any part thereof; to adopt, continue and enact, and from time to time change, ordinances, rules, regulations and by-laws for the preservation and protection of such water works, system, property and shed, and the sources from which such water is, or may be, furnished, and to prescribe and impose penalties, fines and punishment for any violation or infringement thereof; to continue the present sinking fund for the retirement of water bonds and to provide for payments thereto; to direct from time to time the issue of bonds of the city; to be known as water bonds, for the purpose of carrying out any of the foregoing powers, objects or purposes; to prescribe and establish rates and rentals for the use of water, and charges for service and from time to time to alter, amend, modify, increase and diminish such charges, rates and rents; to provide that unpaid water rates and rentals and charges shall become, and be, liens upon the property to which such water was furnished, or service rendered, and that if the same remain unpaid they may be added to the annual city tax to be thereafter known as tax, and collected in the same manner as taxes; provided, however, that the present water system of the city shall be managed, operated and conducted by the water board, as in this act provided, until noon of the first day of January, nineteen hundred and twenty-one.

24. To preserve and protect all hydrants, drinking fountains, and all equipment, machinery and apparatus used in the distribution of water; and to prohibit any injury thereto, and any tampering or interference therewith.

25. To provide for lighting the streets in the city and to make such lighting in whole or in part a general charge; to create, continue, and from time to time change, alter, amend and abolish, separate lighting districts, and provide that special lighting facilities and equipment be therein provided,

and to assess the cost of such special lighting upon the property in such district, and provide for the collection and payment of such assessments; to protect all lamps and other apparatus used in public lighting, and to prohibit injury thereto, and tampering or interference therewith.

26. To submit to the qualified voters of the city, at any general or special election for their approval or disapproval, any proposition concerning the exercise of any power herein given, or otherwise conferred by law, and to provide for the expense thereof.

27. To establish, maintain, continue, manage and administer hospitals and dispensaries; a city jail, and such other charitable and correctional institutions deemed necessary; to relieve, assist, instruct and care for children, and poor, sick, infirm, defective and insane persons; to provide for the burial of deceased indigent persons; to establish and maintain such institutions and instrumentalities for education, instruction, enlightenment, improvement, entertainment, recreation and welfare of its inhabitants as it may deem appropriate, or necessary, for the public interest; to establish and maintain public drinking fountains, public comfort stations, urinals and other conveniences for the public.

28. To provide for the collection, removal and disposal of garbage, ashes and rubbish, and to fix and determine whether the same shall be a general charge, or in whole or in part, a local assessment against the people and property benefited; and if any part is made a local assessment to arrange and provide for such assessment and collection; to create, establish, alter and change special districts for such purposes and to provide for the assessment and collection of the cost within such districts; to provide for the collection of dead animals and other refuse in, upon or near public streets and highways; to provide for the erection and operation of garbage crematories and other apparatus for the destruction of garbage, dead animals and other substances, and to acquire sites therefor.

29. To keep open and preserve the course of the Owasco river through said city; to prevent and punish encroachments upon or over the flowing waters thereof; to prevent the throwing into such river of any dead animal, earth or other material; and to regulate and provide for places of bathing in such river.

30. To establish and regulate public pounds; to restrain the running at large of animals and poultry in the streets, highways and public places.

31. To establish and proclaim local holidays; to appropriate funds for bands concerts, public recreations, celebrations of holidays and other events, and for the entertainment and expense of municipal conventions and conferences held in the city, and of visiting delegations, officials, and persons whom it is desired to honor.

32. To regulate and control the establishment and continuance of cemeteries within the city, and the burial of dead therein; to continue and discontinue existing cemeteries, and establish new ones, and provide for the management, administrations, maintenance and up-keep thereof; to cause maps and plats to be prepared, and arrange for the sale of lots; to provide and erect necessary buildings, vaults, fences and other equipment; and generally provide for such things as are needful or essential in connection therewith.

33. To continue The Soule Cemetery and to provide for its management, control, maintenance and protection, including protection of the rights and property of individual lot owners; to make all necessary constructions and erections; to acquire additional land to be used in connection therewith; to limit, control and regulate the use of such cemetery, interments therein, and the erection of structures, monuments, fences and markers; and generally to provide for the up-keep and repair of such cemetery and of the roads leading thereto from the city.

34. To prevent and extinguish fires, and to protect the people and property of the city from fire and other casualty; to establish, continue, discontinue, alter and maintain a fire department, all needed houses, equipment and apparatus, and to provide for the payment of the same; to provide regulations for the discipline, organization, operation, equipment and compensation of such fire department.

35. To establish, continue and maintain a police department; to regulate and control the number of employees therein, and to provide for its discipline, organization, equipment and compensation.

36. To establish, provide and maintain a fire alarm system; and to prohibit false alarms and all interference and tampering with the fire alarm system and fire apparatus.

37. Subject to general laws of the state, to regulate the use of streets, sidewalks and public places by pedestrians, animals, and motor and other vehicles; to regulate and license the running and operation of engines, omnibuses, trucks, taxi-cabs, trolley cars, bicycles, motor-cycles, motor vehicles, vehicles, airplanes, and other instrumentalities and devices

for transportation, and fix the rate of speed thereof; to regulate parades and public assemblages in streets and public places of the city; to regulate and prohibit the dropping of pamphlets, tracts and other matter from airplanes and other aerial machines within the city, to regulate and prevent the depositing of ashes, garbage, rubbish and filth upon the streets; to regulate and prohibit coasting on the streets of the city.

38. To regulate and license digging and excavating in streets and public places, whether by persons or corporations; to require persons and corporations having or controlling mains, pipes, water laterals, drains and sewer laterals in streets to keep the same in proper condition and repair; to regulate and provide for the care and maintenance of drains, laterals and water pipes in streets.

39. To regulate the use of sidewalks, and store, house and other building fronts; to regulate and prohibit the erection and construction of any stoop, steps, platform, bay-window, stairs, cellar, area, areaway, descent to or ascent from any building, or any projection from any building, in, to, over, upon or under any street or public place; to control, regulate, and prohibit the building, use and occupancy of any cellar, underground areaway, or excavation, under the sidewalk, or street, or any part thereof, and to provide terms and conditions of any permitted use; to control, prohibit and order removed any grating, man-hole, cover or other construction in the walks or streets.

40. To regulate and control the erection and construction in, upon and near streets and other public places, of billboards and other advertising media.

41. To license, regulate and restrict hawking, vending, peddling and the crying of goods, wares, merchandise, or other commodities, in the streets and public places, and by going from house to house; to control and restrain the distributing and peddling of hand bills, pamphlets, tracts and other like matter in the streets, and by going from house to house; to license distributors of bills and other advertising matter; to regulate the use of the streets for lights, signs, awnings, horse troughs, posts, poles and wires; to regulate and control the hanging, exhibiting and swinging of banners, placards and flags in, upon and across streets, and from one building to another; to regulate and prohibit whistles, ringing of bells and noise.

42. To prohibit the placing, dropping and throwing of any glass, nails, or other destructive matter in public streets, and

the leaving and permitting them, or any of them, to remain therein; to prohibit the salting of sidewalks, and of street railway tracks except at switches, curves and depressions where water freezes.

43. To require persons driving horses with sleighs to carry bells, either upon the horses or sleighs.

44. To regulate and provide the width of tires upon wagons used in drawing and hauling heavy loads upon and over the paved, macadamized and improved roads and streets of said city; to regulate and control the use of such improved streets by motor trucks; and subject to general law, to establish and provide a system of license fees, for such wagons and trucks.

45. To regulate, control and prohibit the moving of any house or structure upon or over any street or sidewalk; to regulate and control the use of streets by steam engines, rollers and tractors.

46. To regulate all building and construction within the city and to prohibit the erection, construction and repair of buildings, halls and other structures except in compliance with such building rules and regulations.

47. To make, establish and fix, and from time to time alter and amend, fire districts, and to prohibit any building, construction, alteration or repair therein, except in compliance with general regulations as to construction and materials.

48. To regulate the construction and arrangement of, require stairways, doors, halls, exits and other safety provisions or devices in, all buildings used for the purpose of public assemblage; to prohibit the use of such buildings for such assemblage except in compliance with the requirements of the council for the safety, security and health of persons who may use the same; to raze and demolish any buildings or erections which by reason either of fire, faulty construction or other cause may be dangerous to human health or life.

49. To prevent dangerous construction and conditions of buildings, chimneys, fireplaces, stoves, boilers and other heating apparatus in any building; to regulate the deposit of ashes; to provide for the inspection of steam engines and boilers and to prohibit the use of unsafe ones; subject to general provisions of law, to provide for the licensing of steam engineers and persons managing and operating steam plants, engines and boilers.

50. To maintain order and enforce law, protect property, preserve and care for the safety, health, comfort and general welfare of the inhabitants of the city, and for any of such

purposes, to regulate, license and control occupations, business and public exhibitions, and the construction, use and occupancy of buildings used for dwellings, and other structures, and to adopt and promulgate general housing regulations.

51. Subject to the constitution and general laws of the state, to provide for licensing and otherwise regulating auctioneers, pawnbrokers, junk dealers, dealers in second hand articles, hawkers, vendors, peddlers, public cartmen, truckmen, hackmen, cabmen, expressmen, taxi-cab drivers, drivers, bootblacks, porters, scavengers, sweepers, theaters, moving picture houses, bowling alleys, shooting galleries, billiard parlors, skating rinks, halls or places, for dancing, circuses, menageries, public exhibitions of any kind, places of amusement, and shows.

52. To regulate and prescribe the rates of fare to be taken or charged by owners and drivers of taxi-cabs, automobiles, omnibuses, coaches, cabs, stages, airplanes and other vehicles for hire.

53. To license, regulate and prohibit within the limits of the city the manufacture, sale, transportation, storage, preparation and use of gun powder, dynamite, nitro-glycerine and other explosives, kerosene, petroleum, gasoline, naphtha and other combustible and dangerous materials; to license, regulate and prohibit within the limits of the city slaughtering of animals, bone boiling, fat rendering and other noxious businesses.

54. To regulate and prohibit the emission of smoke, noxious gases, deposits or other pollutions from buildings, locomotives, engines and other sources, and to regulate, restrict and prohibit the use of bituminous coal within the city, or any portion thereof.

55. To prevent, restrain, remove and abate public nuisances.

56. To regulate and prohibit the construction and use of private sewers, drains, sinks, vaults and privies; to compel the owner and occupant of any premises upon which is situated any objectionable stable, privy, sewer, drain, cistern, vault, or any unwholesome or nauseous condition to cleanse, remove or abate the same.

57. To regulate and license the sale of milk in the city, and provide for the inspection thereof, and of the dairies where the same is produced; to prohibit the sale of milk from unlicensed dairies and by unlicensed dealers and peddlers.

58. To regulate and control the sale of meats and to pro-

vide for the inspection thereof; to prohibit the sale of any diseased, tainted or bad meat, poultry, or fish.

59. To prohibit, restrain and regulate the discharge of fire arms, fire works, and the explosion of gun powder and gun cotton.

60. To prohibit persons collecting, loitering, standing upon and occupying sidewalks, bridges, hallways, passageways and stairways.

61. To preserve the public peace and good order; to prevent fighting, threatening or challenging to fight, and quarreling; to prevent riot, disturbances and disorderly conduct.

62. To suppress and prohibit disorderly houses, houses of ill fame, gambling houses, gambling, and the use of any fraudulent or chance device of any kind; to prevent and prohibit drunkenness and disorderly conduct in streets and public places; to restrain and punish vagrants, mendicants, street beggars, common prostitutes and disorderly persons

63. To take all measures, do all acts and enact any ordinances not inconsistent with the laws of the state as shall be deemed expedient, or desirable, for the good government of the city, its management and business, protection of its property, safety and health of its inhabitants, the protection of their property, preservation of peace and order, suppression of vice, the benefit of trade, the preservation and protection of the public streets, preservation of public health, the prevention and extinguishment of fires, and the exercise generally of the powers of the city.

§ 27. The council may make, continue, modify and adopt all ordinances necessary to carry into full effect any and all powers conferred upon the said city or the said council. It may provide for the violation of any such ordinance so adopted by a fine not exceeding one hundred dollars, or by imprisonment not exceeding three months, or by both such fine and imprisonment. It may maintain suit in the name of the city of Auburn to restrain by injunction any violation or threatened violation of any such ordinance.

§ 28. Unless the council shall otherwise direct, every ordinance, or regulation, imposing a fine or imprisonment, or both such fine and imprisonment, shall be published three times in all daily newspapers of said city before the same shall take effect; but whenever the council shall so direct, an ordinance, or regulation, shall take effect from the day of the first publication thereof. An affidavit of such publication, made by the printer, publisher, or his foreman, or principal clerk, shall be filed in the office of the city clerk, and the same, or a

copy thereof, certified by the city clerk shall be presumptive evidence in all courts or places of the legal promulgation of such ordinance, or regulation.

§ 29. The mayor, the councilmen, city manager, city clerk, and each deputy of the city clerk, shall have the power to administer oaths and take affidavits and acknowledgments within the city, the same as commissioners of deeds; they shall also have power to administer any oath, or take any affidavit, in respect to any hearing, trial or matter pending before them, or any of them, and to issue subpoenas and compel the attendance of witnesses and the production of papers and documents. Any false testimony upon any such hearing, or inquiry, is hereby declared to be perjury, and may be punished as provided by law for that crime.

§ 30. Whenever any notice is required by this act, or by law, to be given, and details of such notice are not prescribed, the council may, by ordinance, prescribe for the giving of such notice, either by personal service, mail, or publication, and the length of time thereof.

§ 31. Before determining to make any improvement, the cost of which shall be in whole, or in part, a local improvement charge, or a charge against the abutting property, a public hearing thereon shall be given by the council when practicable, upon such notice as it may prescribe. But this shall not apply to directions or orders to individual owners or occupants of premises to remedy or repair defective or dangerous conditions in walks or highways in front of such premises, or to lay, re-lay, or otherwise improve, sidewalks, curbs and gutters; or to any work or expenditure by the city in cleaning, or repairing sidewalks, or otherwise remedying dangerous conditions, which are in violation of ordinances.

§32. The council may prescribe that any improvement, or public work, which it determines upon, may be done by contract or by the city under the direction of the city manager; if ordered done by contract, the city manager shall prepare uniform terms and conditions for proposals, fix the security to be given, and advertise for proposals. Upon receiving such proposals, he shall, at the time fixed, open and tabulate them, and report the result to the council, with such recommendations he may have to make. Any or all of such proposals may be rejected by the council. If a satisfactory proposal is received, the council may award a contract for the improvement or work, and direct the execution of such contract on behalf of the city. Every contract so made shall provide that the improvement or work shall be in substantial

accord with plans and specifications previously adopted by the council for such work, so far as may be.

ARTICLE II.

FINANCE AND BUDGETS.

§ 33. In accordance with ordinances of the council and general provisions of law, accurate and concise records shall be kept of all moneys, funds, and property received by the city, and the disbursement thereof; of the funded debt, its maturities, and various purposes and accounts for which issued; of all funds and accounts for which money is raised by taxation or special assessment; and, generally, of all financial activities of the city; all of which shall conform so far as practicable to approved municipal accounting systems. The city manager shall prescribe rules and regulations covering and controlling such systems of records and accounting.

§ 34. The council shall prescribe and establish a system of examination and audit of all claims against the city arising out of contract, express or implied; no such claim against the city except for a fixed salary, compensation of officers or employees in any department, or for principal or interest on bonded debt, shall be paid unless a claim therefor shall have been prepared and audited, or approved by the council. No costs shall be allowed in any judgment recovered against the city on a claim arising out of contract express or implied, unless such claim shall first have been presented to the council, or for audit, at least thirty days before the commencement of an action.

§ 35. The city's fiscal year shall begin on the first day of July in each year.

§ 36. On or before the first day of May in each year, all heads of departments and officers shall furnish to the city manager estimates in writing of the probable amount of revenue and expenditures in their respective departments or offices for the next fiscal year. On or before the first day in June in each year, the city manager shall prepare an estimate or proposed budget, for the city (excluding the educational department) for such fiscal year, which estimate, or proposed budget, shall show, so far as ascertainable, (a) the probable revenue to the city from all sources; (b) amount needed for conducting the business and affairs of the city in its various departments and offices; for the various purposes

contemplated either by this act, or by other provisions of law in relation to cities including a sum for contingent expenses; and for the payment of the principal and interest of all bonded indebtedness of the city falling due during the year; (c) the amount deemed necessary to be raised by tax. After he has made such estimate, he shall submit it in writing with such reasons for it in detail as he may have to give to the council, which shall order a public hearing thereon. After publication of notice of such hearing, the council shall, at the time appointed, hear any taxpayer who wishes to be heard in reference thereto, and, after such hearing, it may adopt such estimate as is submitted to it, or increase, diminish, reject, or otherwise modify or amend the same, excepting as to that part relating to the city debt, and adopt the estimate as so modified or amended. When it shall have adopted such estimate, as presented or amended, the same shall be entered at large in its minutes and published in its proceedings and the several sums in such final estimate so adopted shall be and become appropriated for the several departments, offices, purposes, and indebtedness, named in the estimate, for the ensuing fiscal year; and may be disbursed by the heads of the several departments, subject to the approval of the city manager when so required. Such estimate shall be known as the "city tax" budget. The several amounts therein named shall be levied, assessed, and extended upon the assessment-rolls for the year, and raised by tax, upon the real and personal property liable to taxation in the city, according to the valuations thereof as fixed in such rolls, at the time and in the manner herein provided or permitted. Such amount, or tax, when so levied, assessed and extended shall be known as "city tax" and shall be due and payable on the first day of July in each year.

§ 37. On or before the fifteenth day of May in each year, the board of education shall prepare an estimate, or budget, showing the amount of its estimated revenues and income for the next fiscal year (outside of any amount to be raised by tax), the amount needed and permitted for the expense of the public schools and other matters under the charge or control of such board, and the net amount required to be raised by tax for such year; and shall on or before the fifteenth day of May in each year file a copy thereof, certified by its president and secretary, in the office of the city clerk, who shall present the same to the council at its next meeting. The council shall thereupon direct that the amount of such estimate be levied, and extended on the assessment-rolls for

that year by the city clerk, as herein provided. Such estimate, or budget, shall be known as the school budget for the city; and the amount thereof shall be levied, assessed, extended on the assessment-rolls for that year, and raised by tax, upon the real and personal property liable to taxation in the city for school purposes, according to the valuation thereof as fixed in such rolls, at the time and in the manner herein provided, or permitted. Such amount, or tax, when so levied, assessed and extended shall be known as the "school tax" and shall become due and payable on the first day of September in each year.

§ 38. In case the board of education prepares a special estimate to meet emergencies as provided by the education law, and submits the same to the council, the council shall have power to make an appropriation therefor. To provide funds for such appropriation, the council may issue bonds of the city as for extraordinary expenditures, as herein provided, or as may be provided by general law.

§ 39. The board of supervisors of the county of Cayuga shall in each year equalize the amount of the city assessment-rolls, as certified by the city clerk to its chairman or clerk, as herein provided, with those of other towns of the county, as required by law, and shall by resolution adopted on or before the fifteenth day of December in each year ascertain and direct the amount of tax to be levied, assessed and raised in the city of Auburn for state, county, and other lawful purposes within the control of such board; and shall cause a duplicate copy of such resolution to be certified by its chairman and clerk, under the seal of the county, and to be delivered to the city clerk, not later than the fifteenth day of December in each year. The city clerk shall present the same to the council at its next meeting. The council shall thereupon direct that the amount required by such resolution be levied, and extended on the assessment-rolls for that year by the clerk, as herein provided. Such amount shall be known as the county and state tax budget, for the city, and shall be levied, assessed, extended on the assessment-rolls for the year, and raised by tax, upon the real and personal property liable to taxation in the city, according to the valuations thereof as fixed in said rolls, at the time and in the manner herein provided. Such amount, or tax, when so levied, assessed and extended shall be known as the "county and state tax," and shall be due and payable on the first day of February in each year.

§ 40. The council may by ordinance provide and permit

moneys except water moneys, funds and accounts, to be transferred from one fund or account to another. No fund, account or appropriation as fixed by the city tax budget shall be overdrawn.

§ 41. In case funds are needed or required by the board of education for the payment or discharge of school obligations, or the conduct of school affairs, in advance of the time herein fixed for the collection of the school tax, the council shall have power to issue and sell temporary bonds of the city in anticipation of such school tax collections, and to place the amount of such bonds to the credit of the board of education; or, at the option of the council, to transfer to the board of education by placing to its credit funds received from the collection of the city tax. In either case sufficient funds shall be retained by the city treasurer from the school tax as collected for the purpose of paying such temporary bonds, or reimbursing city funds for money so advanced.

§ 42. If the actual receipts from revenues estimated in either the city budget or the school budget are less than as estimated in such budget, the council may upon the recommendation of the city manager in the case of the city budget, or the board of education, in the case of the school budget, direct the issue and sale of a bond, or bonds, of the city to meet the amount so over-estimated, and cause the proceeds to be deposited to the credit of the proper account. Any bond or bonds so issued shall be included in the next available budget of the city or of the schools, respectively, and mature at a time not later than one month after payment of the tax levied under such budget becomes due. In case there is a surplus in the aggregate of any such estimated revenues, it shall be included with estimated revenues in the next budget, if ascertainable at the time such budget is prepared.

ARTICLE IV.

ASSESSMENT AND COLLECTION OF TAXES.

§ 43. The term "assessors" as used herein shall mean the person, or persons, empowered by law, or appointed or designated pursuant to ordinance, to perform and discharge the usual duties and functions of assessors. The assessors of the city shall make assessment-rolls for the city, one for each ward, for each year. Such rolls shall be completed on or before the tenth day of May of each year, and shall generally conform to the requirements of law, of this act, and of the

ordinances of the council. Upon the completion of such rolls, the assessors shall cause a notice to be published continuously for seven days in all the daily newspapers of the city to the effect that the proposed assessment-rolls for the year are completed and left in the office of the assessors where they may be seen and examined, and that the assessors will meet at their said office on the day following the first publication of said notice from nine o'clock in the morning until four o'clock in the afternoon, and on each of the five days following, excluding Sunday, between the said hours, and at such other times as they may designate, to review and correct such assessments. When reviewing or correcting such assessments, they may add or insert any property liable to taxation or assessment, which may have been omitted therefrom, upon giving written notice to the owner, agent, or occupant of said property, either personally or by mail, according to the best information available. At the termination of such hearing, and upon completing and correcting such rolls, they shall make two copies thereof as corrected and revised, and certify the same; one of such copies, so certified, they shall deliver to the city clerk, on or before the first day of June in each year, and the other copy on or before the first day of October in each year. Upon receiving such copies, the city clerk shall ascertain and summarize in each copy the total assessed valuation of the real and personal property and special franchises. On or before the fifteenth day of November in each year, the city clerk shall prepare and certify a statement of all such summaries, and of the aggregate thereof, and deliver the same, approved by the city manager, to the chairman or clerk of the board of supervisors, together with a notice that the original rolls are on file in the office of the assessors, where they may be seen and examined.

§ 44. The rolls upon which such assessments are made, herein called and known as assessment-rolls, shall be prepared so as to conform so far as practicable, with general requirements of law, and shall be in such form, and with such columns, as the council may direct. The roll upon which the "city tax" is extended may contain a column for the school tax; the county and state tax, unless the council otherwise directs, shall be extended by the city clerk upon a separate copy of such roll.

§ 45. (a) Upon receiving the first copy of such assessment-roll the city clerk shall forthwith proceed to extend and apportion thereon the estimate known as the city tax budget,

when adopted, upon all real and personal property on such roll liable to taxation in the city, according to the valuations thereof on such rolls. Such tax when completed and extended shall be the "city tax."

(b) When directed by the council, the clerk shall also proceed to extend and apportion upon the said roll (unless the council shall order it extended upon a separate copy of such roll), in a column marked "school tax" the amount of the estimate known as the school budget, extending and apportioning the same upon all real and personal property liable to taxation for school purposes, according to the valuation of such property on such roll. Such tax when completed and extended shall be known as the "school tax."

(c) Upon receiving from the board of supervisors the amount to be raised for county, state and other purposes and known as the county and state tax budget, the city clerk, when directed by the council, shall forthwith proceed to extend and apportion the same upon such assessment-roll for the year upon all real and personal property liable to taxation, according to the valuation thereof on such roll. Such tax when so completed and extended shall be the "county and state tax."

(d) The council may at any time prescribe that the city tax, school tax, and county and state tax, budgets shall all be apportioned and extended upon the same roll, or the same copy of such roll, or upon separate copies of such roll; or that any two of such budgets may be extended upon the same roll, or copy thereof; and may direct and prescribe how and in what manner the same shall be done, and when completed.

§ 46. When the city clerk shall have apportioned and extended any tax on such assessment-roll, as directed, and completed the same, he shall forthwith present the same to the city manager, and when approved by the city manager, a warrant shall be annexed thereto signed by the city manager and the city clerk, in substance commanding the city treasurer, or such officer as may be designated, to receive, levy and collect the several sums in said assessment-rolls specified as assessed and taxed against the persons or property therein described and named. The completed roll containing the city tax, apportioned and extended as aforesaid, shall be delivered to the treasurer on or before the twentieth day of June in each year. The completed roll containing the school tax, so apportioned and extended, shall be delivered to the treasurer on or before the twentieth day of August in each year. The completed roll containing the county and state

tax, so apportioned and extended, shall be delivered to the treasurer on or before the twentieth day of January in each year. The term "city treasurer" as used herein, shall mean, and apply to, the officer performing the usual duties and functions of treasurer, by whatever name he may be known.

§ 47. The said city tax, school tax, and county and state tax, shall from the time a warrant for the collection of each, respectively, is delivered to the city treasurer be, and become, a lien upon the lands upon which the same, and each of said tax, is assessed and taxed. Each installment of an assessment for a local improvement shall likewise become a lien upon the lands upon which the assessment is made from the time when such installment become due and payable. The lien of any such tax upon any real property shall be superior to all other liens and incumbrances thereon. If any such tax is not paid within three months after it is due, it may be enforced and collected by action against the person against whom assessed, or the lien thereof foreclosed the same as in mortgage foreclosure cases. Any such action or proceeding shall be instituted in the name of The City of Auburn.

§ 48. Every amount, which may be directed by the council to be paid by any property owner for any improvement, benefit or work done to or for his property, or to preserve the city from liability, and which is not represented by a local improvement assessment, shall be a lien upon such property from the time when the amount thereon is determined by the council, and ordered paid. If such amount is not paid when the next city tax becomes payable, it shall be added to such tax against such property.

§ 49. Any warrant delivered for the collection of a tax or local assessment, or any resolution determining the cost of any improvement, benefit, removal or remedying of a dangerous condition, shall be presumptive evidence in all actions and proceedings that all the previous proceedings including the assessing, extending and levying of the tax, notice of the improvement and of the determination of the amount thereof, were regular and according to law.

§ 50. No error or mistake in the name of the owner of any lands assessed upon any general tax roll, or upon any roll for a local improvement, or the fact that the name appearing upon such roll as the owner of any lands is not the owner thereof, nor any irregularity in advertising or certifying any resolution, or notice, nor any omission of any officer, agent or contractor to carry out any detail of any resolution, pro-

vision of ordinance or of contract, shall invalidate such assessment, or such assessment-roll, excepting only where fraud is shown.

§ 51. At any time after the completion of any assessment or tax roll whether the same be for a general tax or local improvement, the council may direct the correction of any error made in any name, or in copying, or in levying or extending any tax, provided, however, that five days' previous notice thereof shall be given to the party or person interested, or affected.

§ 52. At any time the council may order and cause to be stricken from any assessment-roll any property which is illegally assessed and wrongfully thereon, or the assessment of which is for any reason illegal and wrongful, and may cancel and annul any tax extended and apportioned thereon, and may order repayment of any such tax which has been paid. In case any tax or assessment of any kind shall be void, or fail for want of jurisdiction, or because of any omission or irregularity in any respect in the levying or assessment thereof, or in the sale, or proceedings taken for the sale of real estate upon which it was assessed, the council shall have power, and it shall be its duty, to cause the re-assessment of such property, or of the proper amount of such tax or assessment thereon; or may order the assessors to re-assess the cost of a local improvement thereon, or may direct a resale of such property; any such reassessment shall for all the purposes of this act be deemed and taken to be an original assessment, and such resale an original sale.

§ 53. The council of the city shall have power to prescribe by ordinance for the assessment of any property which has been omitted from any assessment-roll, and to order and direct that a just and equitable amount be assessed, levied and extended against such property for the periods for which taxes or improvements are so omitted; and to order and direct that such amount so ordered assessed, be added to the next city tax against such property. The fact that title to such property has changed since such omission occurred shall not prevent the council from making such a just and equitable assessment to cover such omission.

§ 54. Every tax levied, assessed or extended upon any roll shall become delinquent, if not paid within one month after the same becomes due and payable, and thereafter there shall be added to such tax one per centum per month or part thereof, to be collected by the city treasurer at the time such

tax is paid. Such addition or penalty shall belong to the city.

§ 55. Upon receiving the tax or assessment-rolls for the city, school, and county and state taxes, or any of them, the city treasurer shall cause a notice to be published in reference to the collection thereof in the daily papers published in Auburn twice a week for four weeks, beginning, respectively, as follows: city tax, beginning the first week in July; school tax beginning the first week in September; county and state tax beginning the first week in February. Such notice shall be to the effect that he has received the roll for such tax and that during the month stated he will receive payment of such tax at his office without percentage, and that thereafter one per centum per month will be charged and collected. Such notice, when so published, shall be deemed a personal demand upon each and every person upon such roll for the payment of the tax assessed against him. In addition, the council may, by ordinance, direct the city treasurer to send to each person whose name appears upon any tax or assessment-roll, an advance statement of the amount of such tax or assessment, in such form as may be prescribed.

§ 56. The city treasurer is authorized to receive payment of any tax, or assessment for local improvement, in advance of the time when the same becomes due and payable as herein provided, and to give a proper receipt therefor, provided the amount of such tax is ascertainable.

§ 57. The council shall have the power to extend the time for the collection of any tax, or assessment for local improvement, for such period as it may deem advisable, and to postpone or regulate the time for the collection of penalties or additions for delinquent taxes. It may also postpone and change the date when either the city tax, school tax, or county and state tax shall become due and payable, if in its judgment such postponement is desirable, or warranted by reason of any unusual delays in the preparation of assessment rolls, budgets, extension of taxes, or the giving of any notices to property owners directed by the council.

§ 58. The city treasurer shall place to the credit of the board of education all school taxes collected on the levy for school purposes—except such as may be required to pay any temporary bond issued in anticipation of school tax collected, or to reimburse the city treasury for money advanced. On May first of each year the city treasurer shall place to the credit of the board of education the total amount outstanding and remaining unpaid on the school tax rolls, and upon

making such payment all outstanding unpaid school taxes, additions and penalties, shall be the property of the city, and shall be treated and considered as unpaid city taxes; and when collected, shall be paid into the general city fund.

§ 59. On the first of March of each year, the city treasurer, unless otherwise directed by the council, shall pay over to the county treasurer the total of the county and state tax budget, and thereafter all county and state taxes remaining outstanding and uncollected, with all additions and penalties, shall be and become the property of the city. In order to make such payment, and in anticipation of the collection of the balance of said county and state tax budget, the council may direct the issue and sale of a temporary bond, or bonds, for an amount not in excess of the total amount outstanding and unpaid upon said county and state tax rolls. Such bond issue shall mature, however, not later than the first day of July following.

§ 60. If any tax, or assessment, appearing upon the school tax roll or the county and state tax roll—the money for which tax the city has paid, or credited, to either the board of education, or county treasurer, as the case may be—is for any reason uncollectible, because of error, illegality, or other cause, a record of the amount of such uncollectible taxes or assessments, so paid or credited by the city, shall be kept by the city treasurer, and reported each year to the council. The council may direct that such amount of uncollectible tax be added to the amount of the next school, or county and state, tax budget, as the case may be, when reported to it, and be levied, extended and collected with such budget amount; when collected such amount shall be credited to the city.

§ 61. On May first of each year, the city treasurer shall prepare a statement of all taxes outstanding and unpaid on the city, school, and county and state tax rolls, and combine and assemble the same to show the total outstanding against each piece of property; thereafter such statement shall be known as the "total tax" unpaid. Upon payment of any tax in such statement, and before advertisement of sale, as herein provided, the same additions shall be charged for penalties as if each such tax was separate.

§ 62. Upon completion of such total tax statement, the city treasurer shall file it with the city manager who shall report the same to the council with his recommendations. The council may thereupon by ordinance direct that constables of the city be employed to make such collections; and may

authorize the city manager to issue a special warrant to each such constable he may designate, commanding such constable to levy the amount of any unpaid tax or assessment named in said warrant, and five per centum thereon for his fees, by distress and sale of the goods and chattels of the person upon whose real or personal property such unpaid tax or assessment is levied, or of any goods or chattels in his or her possession, wherever the same may be found in said city; and further directing that such officer pay the same over to the city treasurer forthwith; and to make return of such warrant not later than the date therein stated. Such ordinance shall provide that such constable shall give at least five days' public notice previous to the sale, by notice to be posted in at least three public places in said city, and that no claim of property made to such goods and chattels so found in the possession of such person shall be available to prevent a sale; and may contain such other provisions in reference to such collections and sale and the enforcement of the collection for such unpaid taxes, as the council may direct.

§ 63. On the first of June, the city treasurer shall immediately cause to be published twice in each week for three weeks in two daily newspapers published in the city a notice of sale of property for unpaid taxes; such notice shall contain a description of the lands upon which such taxes have been levied, and the names of the owners thereof, so far as known, together with the amount of the tax unpaid against each; such notice shall also state that, if such taxes are not paid with ten per centum additional, and the expense of publication added thereto, on or before a date therein named, he will sell the lands on which, or in respect to which such taxes have been imposed or levied, at public auction to the highest bidder upon the day and at the time therein stated, to pay the taxes, fees, interest and expenses thereon which are unpaid at the time of such sale. On the day and at the hour named in such notice, the city treasurer, or such other person as may be directed by the city manager, shall commence such sale, and continue the same until all shall be sold. In case of sickness, absence, inability or other cause, the city treasurer is unable to make such sale, the city manager may name some other officer to conduct such sale by filing in the office of the city clerk a written designation. Such person shall have the same powers as herein given to the city treasurer in reference to such sale. The purchaser of each parcel, immediately upon the conclusion of the sale of such parcel, shall pay the amount of such sale to the city

treasurer, and the city treasurer shall execute to such person a certificate of sale in which the lands purchased shall be described, and the sums paid therefor and the amount of such tax shall be specified. Every such certificate shall be conclusive evidence that the sale and all proceedings prior thereto were regular and according to the provisions of this act, and all laws in any manner relating thereto.

§ 64. In case such property shall be sold for an amount in excess of the unpaid taxes, interest, additions and expenses, the surplus shall be paid by the city treasurer into the county court of Cayuga county, by delivering the same to the clerk thereof, accompanied by a statement of the facts connected therewith, and such court shall ascertain and determine, upon application made to it for that purpose by any person interested, who is entitled to such money, and shall make such order and decree of distribution and payment as may be just and proper.

§ 65. If upon such sale no bid shall be made; or if the highest bid shall be less than the amount of the tax, interest, additions and expense, the city treasurer shall declare the same sold to the city of Auburn for the amount of such tax, and all interest, additions and expense; and in a book kept for that purpose shall enter such declaration of sale with a description of the lands and the amount of such tax, interest, additions and expense. The city treasurer may subsequently issue and deliver a certificate of sale to any person who will pay the total amount chargeable thereon. The city treasurer shall report to the council the total amount of such lands so sold to the city, and the council shall thereupon order such amount paid from any fund or account that may be available for that purpose.

§ 66. The owner, or any person interested in any property sold for taxes, may redeem the same at any time before the issue of a deed to such purchaser, or of a certificate to the city, as herein provided, by paying to the city treasurer for the use of such purchaser, or the city, as the case may be, the sum for which such property was sold, together with ten per centum per annum in addition from the date of such certificate, and also the amount of any subsequent taxes paid by such purchaser, or by the city, with ten per centum per annum additional upon such payments. If upon any such sale any parcel of land be sold for more than the amount due for taxes, interest, additions and expenses, the certificate issued upon such sale shall draw interest at the rate of ten

per centum, as aforesaid, only upon the amount so due, and legal interest upon the excess over such amount.

§ 67. If such premises are redeemed, or the amount of such unpaid taxes, interest and other charges are paid at any time after sale, by the holder of any lien, or purchaser at any prior tax sale, then such amount so paid may be added to the lien of such lienor, or the amount of the claim of such prior purchaser.

§ 68. The purchaser at any sale is entitled to have an official search or abstract of title prepared, and such expense, together with any expense of mailing, service or publication, if certified to the city treasurer before such property is redeemed, shall be added to the charges against such property, and to the amount required to redeem.

§ 69. Notice of redemption, as such term is herein used, may be written, or printed, or partly written and partly printed; it shall contain, briefly, a description of the lands sold, name of owner against whom assessed at the time of sale, amount paid at sale, amount paid subsequently to sale for subsequent taxes, interest, additions and expenses, and the last day upon which said premises may be redeemed; together with a concise statement of the amount required to be paid to redeem, with interest, which amount shall be paid to the city treasurer for the benefit of the purchaser, on or before the day therein fixed as the last day to redeem. Such notice shall be served upon the owner in fee; occupant; holders of liens by way of mortgage, judgment, or otherwise, as may appear of record; purchaser on any prior tax sale; and upon any other person known to have any lien, claim, share, interest or right in or to such lands. Such service shall not be made, or publication started, until after eighteen months from date of sale. Service of such notice shall be made as follows:

(a) Upon persons residing, or having a place of business in the city, personally, or by leaving a copy at the place of residence, or of business, with some person of suitable age and discretion, at least three months prior to the day fixed in said notice as the last day to redeem.

(b) Upon persons residing outside of the city, whose residence or place of business is known, either personally, as in subdivision (a) hereof, or by mail, enclosed in a sealed envelope, postpaid, directed to such person at his residence or place of business, or post-office address, at least three months prior to the day fixed as the last day to redeem.

(c) Upon persons whose residence, and addresses are un-

known, by publication, once a week for three months in one of the daily papers published in the city. Such publication shall be completed at least three months prior to the day fixed in said notice as the last day to redeem.

If any such person upon whom notice is required to be served is an infant, then upon his guardian; if such infant has no guardian, then application may be made to the county court of Cayuga county for the appointment of a special guardian, and such court shall be empowered to appoint such special guardian upon application of any person, to protect such infant's interest, as far as possible.

The term "purchaser" herein shall be construed to include the original purchaser, his representatives, or assigns; and the term "person" to include any corporation, company, association, as well as any natural person.

§ 70. If the lands so sold for taxes shall not be redeemed after notice to redeem, served as herein provided, the council shall upon proof by affidavit that the purchaser, or his assigns, has complied with the provisions of this act, direct the mayor to execute and deliver to the purchaser a deed under the corporate seal of the city, which deed, in addition to the description of the lands, shall recite the fact of such assessment and tax, the failure to pay the same, the advertisement and sale, and that such lands have not been redeemed as required; such deed shall be presumptive evidence in all courts and places that such assessment and tax for which such lands was sold were legally imposed and that such sale was in all respects valid and proper. Such deed shall vest in the grantee an absolute estate in fee.

§ 71. If after eighteen months from the date of sale, the tax and charges on any property bid in by the city still remain unpaid, the city manager shall follow the same procedure to perfect title on behalf of the city; and upon compliance therewith, the city shall be entitled to a certificate, to be signed and acknowledged by the city treasurer, which shall, in substance, contain the same recitals, as a tax deed; and shall vest in the city the same title.

§ 72. The city upon the execution and delivery of such certificate, and the grantee in any tax deed, upon the execution and delivery of such deed, shall each be entitled to the immediate possession of the respective lands therein described, and may obtain the same if necessary by summary proceedings in the same manner provided by law in cases of tenants holding over after the expiration of their terms without the consent of their landlords.

ARTICLE V.

BONDS.

§ 73. The council may direct the issue of bonds of the city, from time to time, to defray the cost in whole or in part of, or to reimburse the treasury of the city for, any of the following improvements, purposes, or objects:

(1) Paving, re-paving, surfacing, or re-surfacing any street, highway or public place, including the furnishing and setting of curbs, re-laying of sidewalks, and grading the space between sidewalk and curb, and doing other work incidental or essential to such improvement.

(2) Building, or re-building, sewers, drains, or sewage disposal plants, or any of them, whether within a sewer district or not.

(3) Building, laying or re-laying, sidewalks, furnishing and setting curbs, and building gutters, or any of them. On or before the first regular meeting in February in each year, and as often as it deems it advisable, the council shall determine the aggregate expense of all such improvements outstanding, and unfunded, including interest and all other outstanding charges, and direct that such aggregate sum be funded in an issue of bonds of the city.

(4) Building, re-building, altering or extending subways, bridges, or public buildings; opening, extending or widening streets; extension, repair or alteration of the water system or service, or of any part thereof; building, extending or altering school houses; or for any other purpose authorized in this act, or by any provision of general law.

(5) Temporary bonds to anticipate the collection and payment of any tax; but such bonds shall not run longer than the first day of July following.

(6) Temporary bonds to finance any improvement in course of construction whether such construction ultimately is to be paid by local assessment or as a general charge. Such bonds may be refunded, or renewed, from time to time, until the final issue of bonds for such improvement is sold and the proceeds received.

(7) To meet any deficiency in estimated revenues in either the city tax budget, or the school budget.

(8) Extraordinary expenditures in any branch or department of the city as in the next section provided.

§ 74. At any time the city manager may recommended to the council the issue of bonds for extraordinary expenditures.

Such recommendation shall be received by the council which shall order a public hearing upon the same, and may within thirty days thereafter approve of an issue of bonds to such an amount, of such duration and at such a rate of interest as recommended by the city manager; provided, however, that the council of the city may, if it deems it advisable, by ordinance or resolution, direct that the question of the issue of such bonds be submitted to the voters of the city at a general or special election, and may in such ordinance or resolution state the question to be voted upon, and arrange and provide for all other details necessary for such submission; if such submission is ordered, then the period in which the council may approve of such issue of bonds shall be extended thirty days after the clerk of the city has certified to the council the result of such submission. In case the council approve such issue, it may direct the mayor and city clerk to execute such bonds as in the next section provided.

§ 75. All bonds ordered issued shall be executed in the name of the city by the mayor and city clerk under the seal of the city. Excepting the temporary bonds, they shall be in serial form, maturing in substantially equal amounts annually in each year subsequent to the date of issue; and may be registered or coupon, payable at the office of the city treasurer, or at such bank, banking house or trust company as the council may direct; provided, however, that nothing herein contained shall prevent the issue of bonds in multiples of one hundred dollars, so far as may be. Each such bond shall contain a recital that it is issued pursuant to, and in conformity with, the provisions of this act, which recital shall be conclusive evidence of its validity and of the regularity of its issue. Every ordinance authorizing an issue of bonds shall state the purpose and fix the amount, the rate of interest and duration, and provide that such bonds shall be sold at not less than par and accrued interest.

ARTICLE VI.

PUBLIC WORKS AND PARKS.

§ 76. The department of public works and parks shall include all streets, highways, bridges, sidewalks, curbs and gutters, sewers, disposal plants, subways, parks, playgrounds, and all public lands, buildings and works.

§ 77. In addition to other powers and duties, prescribed herein, and by ordinance of the council, the city manager, as

the administrative head of the city, shall have charge and supervision of the department of public works and parks, and may, from the budget appropriation made therefor, improve, repair, alter, grade, re-grade, pave, repave, surface, re-surface, sprinkle, flush, oil, cover with some dust-allaying substance, and clean streets, highways, squares and public places; repair, examine and keep in safe and suitable condition all bridges, public works and buildings; repair, protect, clean, and keep in operative condition, public sewers, drains, sewer laterals, and sewage disposal plants; improve, repair and direct the up-keep of all parks, playgrounds, trees, and grass plats in the highways; regulate and direct the placing of poles, wires and all overhead construction in streets; direct the maintenance, repair, protection, and use of subways and their appurtenances; and generally, subject to the ordinance of the council, have charge of the expenditure and disbursement of all budget appropriations, not otherwise limited or designated, for the purpose of carrying out and giving effect to the purposes of such appropriations. Any work, repair or improvement which the city manager is authorized herein to do or, make, may be done by city employees, equipment and agencies, or by contract.

§ 78. The city manager shall cause all public works, buildings, bridges, streets and improvements, both local and general, to be inspected with sufficient frequency to ascertain their condition, and shall cause the same to be kept in good condition and repair, reasonably safe for public use, and free from dangerous obstructions so far as may be. He shall have power to prescribe rules and regulations controlling and governing all public works of every kind, and the upkeep, maintenance and use of all parks. He shall have general supervision and control of all work being performed for the city under any contract, and it shall be his duty to see that the terms and provisions of all such contracts are complied with on behalf of the city.

§ 79. After the council, or the city manager has determined upon any pavement, re-pavement, surfacing or re-surfacing of any street, the city manager shall cause notice thereof to be published at least three times in each daily newspaper published in the city, specifying the street or streets, or parts thereof, to be paved, or otherwise improved, and requiring all persons, corporations and companies within the time stated therein, which shall not be less than thirty days, to do such excavation and lay such mains and pipes in such streets, and make such repairs of, and connections with,

existing gas, water mains, sewers and pipes, as may be needed or required within the next two years; and also within five days of such first publication the city manager shall cause such notice to be mailed to any corporations, companies and departments owning or having charge of mains and pipes in such streets, or franchise rights therein. After such improvement is completed, no person or company shall excavate therein for a period of two years, unless by permission of the council to repair defects that may arise to mains, sewers, pipes or conduits, upon such terms and conditions as the council may prescribe.

§ 80. In case of the failure of any owner, or occupant, of any premises to comply with the provisions of any city ordinance requiring the removal, or abatement, of any dangerous obstruction or condition in any sidewalk or in the street, or highway, in front of said premises caused or contributed to by such owner or occupant, or to keep such sidewalk free and clear of snow, ice, dirt, or other matter which is, or may become, dangerous, the city, the city manager, or any officer or employee of the city may forthwith remedy, or remove, such obstruction, condition, snow, ice, dirt, or other matter. The city manager shall report the cost thereof to the council. After a hearing, the council may determine the reasonableness of such action and the cost thereof; and order such cost collected and paid, with one per centum additional for each month, after the first month, it remains unpaid. If not paid at the time the next city tax becomes payable it shall be added to such city tax, and thereafter become a part thereof to be collected in the same manner as any unpaid city tax.

ARTICLE VII.

STREET, SIDEWALK, AND SEWER IMPROVEMENTS.

§ 81. The council shall have power to pave, repave, surface, and re-surface streets, highways and public places. It may determine and provide that the entire cost of any such improvement shall be a general city charge; or it may determine and provide that only a part thereof, which part, however, shall in no event be less than fifty per centum of the entire cost, shall be a general city charge, and that the balance be raised by assessment upon the abutting property, or owners.

§ 82. Unless otherwise provided by the council, any such

improvement shall include street intersections, the furnishing, laying and setting of curbs, relaying of sidewalks to required grade, grading the space between the sidewalk and curb, and doing such other work as is incidental, or essential, to the completed improvement.

§ 83. The council may, at any time, designate any street, highway, or public place, or any part thereof, as one to be paved, re-paved, surfaced or re-surfaced; and, if it proposes that such improvement be made partly as a general city charge and partly as a charge, or expense, upon the abutting property, as herein provided, it shall direct that plans and specifications for such proposed improvement be made. After such plans and specifications have been prepared and presented to the council, it shall order a hearing thereon, and after such hearing, may determine to make such improvement. It shall then fix the percentage of the entire cost to be paid as a general city charge, and the percentage to be paid by assessment upon the abutting property, or owner. The determination by the council whether an improvement to a street, highway or public place is a paving, re-paving, surfacing or re-surfacing, within the contemplation of this article, shall be conclusive.

§ 84. Such improvement may be done by contract or by the city under the direction of the city manager, as the council shall prescribe. If it is ordered done by contract, the city manager shall provide uniform terms and conditions for bidding, fix the security to be given, advertise for sealed proposals, receive, open at the time fixed, and tabulate such proposals; and report them to the council, with such recommendation as he may have to make. The council shall designate the kind of improvement, and the material to be used, and, if a satisfactory proposal is received, may direct the execution of a contract for such improvement, in substantial accord with the plans and specifications for the particular kind of improvement designated.

§ 85. After completion of such work, upon the certificate of the city manager, the council shall determine the entire cost of such improvement, including the amount chargeable against any street surface railway company owning, operating or having tracks in the part of such street so improved.

§ 86. After determining such entire cost, the council may direct that the part of such cost which is a general city charge be paid from any budget appropriation for street improvement, or from the proceeds of bonds issued as herein provided. It may also provide that any abutting owner

liable for assessment on account of such improvement be given an opportunity to pay his proper share of such cost in advance of any issue of bonds, and thereby be relieved from subsequent assessment.

§ 87. After determining the amount to be borrowed to defray the expense of such improvement, the council may direct the issue and sale of bonds for such amount. Such bonds shall be of such duration and at such a rate of interest as the council shall fix.

§ 88. After the issue and sale of bonds, the council shall ascertain the total amount of such bonds and interest until the last bond matures, and the amount thereof to be paid (1) by the abutting property—excluding, however, any property which may have paid its proper part in advance—and order that such amount be assessed as a local improvement upon such abutting property, according to lineal foot frontage, as herein provided for local improvements, and be paid in substantially equal installments corresponding to the duration of the bonds; (2) by such street railway company, proportionately to the amount chargeable against such company, and order that such amount be assessed against such company in the same manner as a local improvement, and be paid in similar installments; (3) by the city, in case any part of the city's share of such entire cost has been included in such bond issue, and shall direct that such share be paid in the same number of substantially equal installments, by including one such installment in each year's tax budget thereafter until such issue is paid.

§ 89. The council shall have the power to open, extend, widen and straighten streets, highways and public lanes and to acquire necessary lands and rights therefor. When it is proposed to make such improvement, the council shall direct the preparation of plans therefor. After the completion of such plans, it shall order a hearing thereon. After such hearing, it may determine to make such improvement and provide for the acquisition of necessary lands and rights, and for the performance of any necessary work in connection therewith. Upon the completion of such improvement, it shall determine the cost, and direct the issue of bonds to defray the same. Such bonds shall be of such duration and rate of interest as the council directs. After the issue and sale of such bonds, it shall determine the entire cost, including all interest, and direct the assessors to assess such entire cost as a local improvement upon the real property bene-

fited by such improvement as near as may be in proportion to the benefits received.

§ 90. The council may at any time it deems it advisable direct that new sidewalks, curbs, and gutters, or any of them, be laid on any street or part thereof, pursuant to plans and specifications therefor prepared and adopted, so as to make a uniform improvement in said street. Before determining to make such improvement, the council shall direct that a public hearing be given upon such proposed improvement. After such public hearing, it may determine to make such improvement either by contract, or by the city under the direction of the city manager; or by contract, the city manager shall advertise for proposals and report, as herein provided. After receipt of such proposals the council may direct the execution of a contract therefor. Upon the completion of such work, it shall, upon the report of the city manager, determine the cost thereof, and order bonds of the city issued in payment thereof. After determining the total cost of such bonds and interest, it shall certify to the assessors the total cost of such improvement and direct that the same be assessed as a local improvement upon the abutting or adjoining property, which has not been paid its share of such cost.

§ 91. The council may require the making, laying and grading of any sidewalk, street driveway between the sidewalk and gutter, curb, or curb and gutter, and the relaying, repairing and regrading of any unsightly, irregular, defective or poorly drained sidewalk, street driveway, curb or gutter, by the owner and occupant, or either, of any land in front of which it is desired to make such improvement or repair; and fix, determine and prescribe the width and other dimensions thereof, the kind and quality of materials to be used, and the width and length of the several pieces to compose the same, and provide that such improvement or repair be done within a fixed time of not less than two weeks. In case such work or improvement is not done within such time, it may cause the same to be done by the city manager. Upon the completion of such work the city manager shall report the total cost thereof including the expense of serving any notices, advertising, and all other expenses connected therewith, and the council, after notice of hearing to the owner or occupant of such property on the matter of such cost, shall determine such cost.

§ 92. Upon the determination of the cost of such improvement, the council may direct that the total cost be paid

by the owner, and if not paid within thirty days, that it, with one per centum per month additional, be added to the next installment of city tax, and thereafter the same shall be, and be known as, tax, and shall be collected in the same manner as any unpaid city tax; or the council may provide that such cost be paid by assessment as a local improvement, by directing that it be included with the costs of like or similar improvements to other parcels of property, and that bonds of the city be issued and sold to reimburse the city treasury for such costs. After the sale of such bonds, the council shall determine the total amount thereof, with interest to final maturity and other expenses, and, by resolution, direct the assessors to assess such amount upon such various parcels, as a local improvement, proportionately according to the cost of each improvement, as determined by the council. The issue of bonds herein provided for shall be known as sidewalk improvement bonds. The council may, from time to time, and at least annually on or before the first meeting in February in each year shall, direct the issue and sale of such bonds to reimburse the city for outstanding amounts paid or disbursed by it for sidewalk, curb, gutter and like improvements.

§ 93. The council may by ordinance prescribe the manner and method in which sidewalks, curbs and gutters, or any of them, may be built, improved, and required for owners who desire any such improvement done with the aid of the city; and may provide, by ordinance, for the determination of the cost upon completion, for payment thereof, and for the assessment of such cost and its proportionate share of interest of any bonds issued and of any other expense in connection therewith.

§ 94. The various sewer districts of the city, as now laid out and constituted, whether by law, ordinance or resolution, are continued, with power in the council to change, alter and amend any of them at any time. If the council proposes to construct, build or rebuild any sewer or drain, either within a sewer district or without a sewer district, it shall cause plans and specifications therefor to be prepared and filed in the office of the city clerk. After such filing, and after a public hearing thereon, it may determine to construct, build or rebuild such sewer or drain, and cause the work to be done either by contract as herein provided, or by the city under the direction of the city manager. Upon the completion thereof it shall, upon the certificate of the city manager,

determine the cost, and may direct the issue and sale of bonds to defray the expense of such improvement.

§ 95. After the issue and sale of such bonds it shall ascertain the total amount of such bonds and interest to the maturity of the last bond, and fix the amount to be raised by special assessment either upon the sewer district or the property benefited, as the case may be, and direct such assessment (a) if such improvement is within a sewer district, by the city clerk as herein provided; (b) if not within the sewer district, by the assessors as a local improvement, according to benefits received.

ARTICLE VIII.

LOCAL IMPROVEMENT ASSESSMENTS.

§ 96. The term "local improvement" shall mean any improvement, work, or benefit, whether done by the city under the direction of the city manager, or by contract, the cost of which, or part thereof, by this act, by ordinance of the council, or otherwise by law, is to be borne by the abutting property, or the property benefited, or its owner.

§ 97. If not otherwise provided by ordinance, after the completion of any local improvement and the issue and sale of bonds to defray the expense thereof in whole or in part, the council shall by resolution certify to the assessors the part of the total cost of such improvement to be assessed against the abutting property, or the property benefited, with the exception of the property which may already have paid its proper share of such improvement, which such property shall be briefly described by name or number.

§ 98. Upon receipt of such resolution, the assessors shall forthwith proceed to assess the amount directed upon the real property adjoining or abutting upon such improvement, or the property benefited, as the case may be, including all real property otherwise exempt from taxation, whether owned by charitable, benevolent, religious, or educational corporations, boards, or societies, or persons, but excluding any property which the council, or the city manager, shall certify has paid its proper share, and shall make and subscribe an assessment-roll thereof. Upon completion of such assessment-roll, the assessors shall fix a time of hearing thereon and shall cause notice thereof to be published at least twice in the daily papers of the city, such first publication being not less than five days before the day of hearing; and shall,

so far as practicable, cause notice thereof to be mailed to each person appearing on such tentative roll, at the time of the first publication.

§ 99. Upon such hearing, the assessors shall hear the objections of interested parties, and may adjourn from time to time, to complete such hearing. After such hearing they shall make such corrections, changes and additions, as appear to them fair and correct, and complete and verify such roll, and file the same with the city manager for his approval. If the city manager does not approve, he may return it to the assessors for a rehearing, or for correction. If he approves, he shall sign such roll, together with a warrant to the city treasurer, or officer performing like duties, to collect the several amounts in such roll.

§ 100. If by reason of this act, or by ordinance of the council, or otherwise, such assessment is payable in installments, such roll shall show the total amount, as well as the amount of each installment with the date it becomes due and payable. Unless otherwise directed, the number of installments in which any local improvement assessment is payable, shall correspond to the number of years in the bond issue for such improvement.

§ 101. The first installment shall become due and payable two months prior to the maturity of the first bond, and each installment annually thereafter. At the time each installment becomes due and payable, it shall become a lien upon the property upon or against which it is assessed, enforceable and collectible by foreclosure, as a mortgage in default, by action, or by sale; if not paid within thirty days after the same becomes payable, then one per centum per month thereafter shall be added. If not paid at the time the next city tax becomes payable, it, with all fees and additions, shall be added to such tax against such property, and become a part thereof, and its payment enforced by sale or other proceeding the same as any unpaid city tax.

§ 102. In case the improvement is a sewer in a sewer district, then the council shall direct the city clerk to divide the total cost, as ascertained, into equal parts or installments, as near as may be, corresponding to the period of years of the bond issue, and add one of such parts or installments to the next city tax, apportioning the same upon all real property in the sewer district, including real property otherwise exempt, whether owned by charitable, religious, benevolent or educational corporations, boards or societies, or other persons, according to the value of such property in the as-

assessment-roll for such year; and continue a like procedure each year thereafter, until the whole amount is paid. Each such amount so added shall be and become a part of such city tax, and shall be known as tax, and be collectible the same as any unpaid city tax, with like percentages.

§ 103. In paving, repaving, surfacing and resurfacing the share of the abutting property, or the assessment against such property shall be determined according to the lineal, or foot, frontage; in sidewalk, curb and gutter assessments, proportionately according to the cost of each improvement, entering into the total of such bond issue; in all other matters according to the benefits received, unless otherwise directed by the council. The council shall have the right and power to direct the principle to govern in completing such assessments for local improvements.

§ 104. In the case of any local improvement or benefit, not herein specifically provided for, which is ordered and made or furnished by the city, under any power given herein, or otherwise by law, the council shall have power to determine the cost thereof, the part to be paid as a general city charge, and the part to be paid by local assessment; and to prescribe how, when and against what property the same shall be assessed, and to direct the completion by the assessors of an assessment roll thereof.

§ 105. The council may prescribe by ordinance so far as is practicable that at any time after the completion of a local improvement, and before the issue of bonds therefor, any property owner who desires to pay his proper or proportionate share of such improvement in one sum, may do so, and that such property owner will thereby be relieved from any local assessment therefor, anything in this act to the contrary notwithstanding; and may direct the city manager in reporting the cost of such improvement to make a tentative return of the share of, or charge against, each parcel of abutting property; excepting where the amount of such share, or charge, is ultimately to be determined upon the principle of benefit received; the purpose of this provision being to allow property owners chargeable with a part of such cost, to meet and pay such part in a lump sum, without the additional charge for interest arising from a bond issue.

ARTICLE IX.

POLICE AND FIRE DEPARTMENT.

§ 106. There shall be a police department and a fire department. The city manager shall be the administrative head of each. The council shall by ordinance designate the number of persons, with their rank and salaries, to be appointed to service in each said department. All appointed to service in the police department shall be known as policemen, and all appointed to service in the fire department as firemen. Without prior direction from the council the city manager may designate and appoint as many special policemen without pay as he may deem necessary; they shall possess the same powers as regular policemen.

§ 107. Subject to the ordinance of the council, the city manager shall make such rules and regulations for the management of each department as he deems advisable, or necessary.

§ 108. Records of all proceedings, appointments, removals and other activities shall be kept for each department.

§ 109. Any member of either department may be publicly reprimanded or suspended with or without pay for a period not exceeding one month, by either the city manager or the chief of the respective department under the city manager. In case of suspension by the chief, such fact shall be immediately reported by him to the city manager, who shall have power to confirm, modify or revoke such suspension. The city manager shall have power to remove, or dismiss, any member of either department at any time, but no order of dismissal from service shall be made until an opportunity is given to such member to be heard, upon a notice of six days after charges preferred.

§ 110. Such policemen shall possess the powers, perform the duties, and be subject to the liabilities of constables of town. They, or any of them, may arrest without process any person offending against the laws of this state, the provisions of this act, or the ordinances of the city within his view, and may enter any house, store, building, or other place where any person has in said policemen's hearing or presence, committed any breach of the peace, or violated any ordinance of said city, or where any riot, disorderly conduct, unlawful assemblage, noise, out-cry, alarm or disturbance shall be made, and bring the person so offending before the recorder,

or other magistrate having jurisdiction and enter the appropriate complaint or charge.

§ 111. The city manager may arrange to police, and to preserve order in any park, cemetery, or other property owned, possessed or controlled by the city outside of the corporate limits of the city; and any such policeman may make arrest as in the previous section, for any violation of law committed in, or near any such park, cemetery, or other property.

§ 112. The chief of the fire department, and any of the members thereof acting under him, or by his direction or that of the city manager or fire marshal, or person performing the duties corresponding to those of the fire marshal, shall have the power at any time to enter any building within said city for the purpose of examining the same, to ascertain the construction thereof, fire risk, exits, and other matters concerning public safety; and to extinguish any fire therein, or in any adjoining building.

§ 113. The city manager shall have the power to compel the owner or lessee of any theater, hotel, place of amusement, or place where people congregate, to make such changes by way of additional means of exit, fire-escapes, or both, as he shall deem essential, and to provide and order that until such changes shall be completed the same be closed to the public. Action may be maintained in the name of the city to restrain, by injunction, any violation of such order or regulation.

§ 114. The relief and pension funds of the police and fire departments, with their respective rules and regulations are continued. The council shall have power to make annual appropriations to each such fund in the city budget; to provide by ordinance for the management and control of such funds by trustees or directors, to amend, alter and change existing rules and regulations, and to prescribe, adopt, and establish new rules and regulations; to provide for contributions thereto, and distributions therefrom. All fines imposed on members of the respective departments, and gifts in recognition of service, shall be paid to the credit of the respective fund. The tax required to be paid by foreign fire insurance companies, associations, individuals, and agents to the treasurers of fire departments of cities, and all similar taxes, now or hereafter required by any statute, shall within the city of Auburn be paid to the city treasurer thereof who shall place the same to the credit of the firemen's relief and pension fund; except that he shall pay to the treasurer of the Fireman's Association of the state of New York ten per cent

of such amount so received, for the support and maintenance of the volunteer fireman's home at Hudson, New York.

§ 115. The city manager, or chief in charge of the fire department at any fire, may order and direct the pulling down or destruction of any buildings which may be deemed hazardous, or likely to communicate fire to any other building or buildings. No action shall be maintained either against the city of Auburn or any person therefor; but the owner, or any person interested in any building so pulled down, or destroyed, or in any personal property therein, may within three months, but not thereafter, apply to the council, by petition, for relief or reimbursement therefor, stating the interest of the petitioner in said building, or the personal property therein destroyed, with the particular description of the property destroyed and its value.

§ 116. The council may agree with such petitioner as to the amount of just compensation to be paid for any building or personal property so destroyed, but in case the council is unable to agree with any petitioner as to the amount of just compensation, then said petitioner, or the council, may make application for the appointment of commissioners to ascertain and report the just compensation to be paid to the said petitioner, owner of said building, or personal property therein destroyed, in the same manner and to the same court as is provided in title one of chapter twenty-three of the code of civil procedure of the state of New York for the appointment of commissioners in condemnation proceedings; and all of the provisions of said title of said chapter twenty-three shall be applicable to such commissioners so far as practicable.

§ 117. Such commissioners shall receive the same fees and possess the same powers to ascertain and report the just compensation to be paid for such building or property as the commissioners named in condemnation proceedings. They may take proof of the probability of such building, or personal property, having been destroyed or injured by fire, if such building had not been so pulled down, and other material facts in connection therewith; and may report the compensation, if any, that should equitably be awarded in view of the probability of such destruction by fire, and of the other facts and circumstances in connection therewith. The commissioners, or a majority of them, shall make and sign a report and deliver the same to the city clerk; an appeal may be taken therefrom by any party feeling aggrieved in the same manner as an appeal from a finding of commissioners

as prescribed in said title one of chapter twenty-three of the code of civil procedure.

§ 118. Upon the confirmation or correction of such report, or upon an agreement with any petitioner for compensation, the council may direct an issue of bonds of such duration and rate of interest as it may deem advisable to pay the same; and it may determine how such award, and any interest to grow due thereon, and other expenses connected therewith, shall be paid, whether the same shall be a general city charge, or a charge to be assessed entirely by the property benefited as a local improvement, or in part a general city charge and in part a local improvement charge; and if in part a local improvement it may direct that the same be assessed and collected as such upon the property benefited in the manner herein prescribed for local improvement assessments, or in any other manner it may deem just and equitable. If a general city charge it shall provide for the payment of the same by annual installments thereof in the annual tax budget.

ARTICLE X.

HEALTH.

§ 119. There shall be a department of health. The council shall act as, and shall constitute, the board of health. So much of the general public health law as provides for the creation of a separate board of health shall not apply to the city of Auburn after this act takes effect. The council as such board shall be subject to all the provisions, and have all the powers and perform all the duties and functions, conferred and imposed upon boards of health by general laws, except as herein otherwise provided. Any matter within the province or jurisdiction of the council as such board of health may be considered, or acted upon, at any regular or special meeting of the council, in conjunction with other city business.

§ 120. The city manager shall be the administrative head of such department, and shall have jurisdiction and power to carry out all the rules and regulations of the council in matters pertaining to the general health; shall appoint all officers, inspectors, and employees in such department, as may be prescribed by the council, at the salary fixed.

§ 121. The council shall have power to adopt and promulgate a sanitary code, not inconsistent with law, for the city, and to make reasonable rules and regulations for the pres-

ervation of the public health, and for the control and management of the department. In addition to any other powers herein contained, the council shall have power to take such measures as it shall deem needful to prevent the entrance of any pestilential or malignant disease into the city; to stop, detain, and examine for that purpose, every person coming from any place suspected of being infected with such disease; to maintain and regulate a municipal isolation hospital, and cause any person infected with any pestilential or malignant disease to be confined therein until cured; to remove from the city or destroy any furniture, wearing apparel, or other property of any kind suspected of being tainted or infected with any pestilential disease; and in case of great and imminent peril to public health by reason of impending pestilence to take such necessary measures and do such acts and to incur and make such extraordinary expenditures, although in excess of any sums appropriated to the department of health, for the preservation and protection of the public health, as it may deem necessary.

ARTICLE XI.

CHARITIES.

§ 122. There shall be a department of charities. The city manager shall be the administrative head of such department and, subject to the ordinances of the council, may make and establish such rules and regulations for its management and conduct, and the disbursement of appropriations therefor, as he shall deem advisable. He shall provide that a record of all proceedings and activities of such department shall be kept together with an account and record of all moneys and funds received or disbursed.

§123. All commitments to the county poorhouse, or to state lunacy asylums, and all proceedings in abandonment whereby any child or wife is liable to become chargeable upon the public for support, in cases provided by law, shall be issued, made and instituted in the name of the city manager; all proceedings in bastardy cases shall be instituted by, and in the name of, the city manager, or under his direction, before either the city judge or recorder, who shall have and possess all the powers and jurisdiction of a justice of the peace in such cases. Upon the return of the process, the officer issuing the same shall immediately call to his aid the other of said officials, or in case of his absence or inability

to act, then the justice of the peace, whereupon they shall proceed to dispose of the case in the manner provided by law.

ARTICLE XII.

WATER.

§ 124. The water board of the city of Auburn, as now constituted, shall be, and is hereby continued, by this act, until noon of the first day of January, nineteen hundred and twenty-one, and shall have and possess all the powers, functions and duties prescribed and set forth in chapter four hundred and seventy-nine of the laws of eighteen hundred and ninety-two, as amended and supplemented by chapter thirty-six of the laws of eighteen hundred and ninety-four, as amended. The council shall have power to fill any vacancy in said board for a term to extend to noon of the first day of January, nineteen hundred and twenty-one.

§ 125. On and after the first day of January, nineteen hundred and twenty-one, the council shall have the power, and it shall be its duty, to take over, arrange and provide for the management, control and operation of the entire water system and plant of the city of Auburn now managed, controlled and operated by the water board of the city of Auburn (which management, control and operation by the said water board of the city of Auburn is by this act continued until noon of the first day of January, nineteen hundred and twenty-one); and to furnish and supply, and to continue to furnish and supply, a sufficient quantity of good and wholesome water to the city of Auburn, and the people thereof. For this purpose the council shall have power to adopt ordinances, rules and regulations for the protection and preservation of such water works, system, property, water shed, and the sources from which such water is furnished; and to acquire such additional lands and rights as it may deem essential, to purchase, install and operate machinery, pumps, mains and all other equipment and property necessary or essential in its judgment to furnish and supply such water, and to perform and discharge the duties herein imposed, and to exercise the powers, herein conferred. The council shall have power, from time to time to direct and provide for the issue and sale of bonds, designated as water bonds, for the extension, repair or alteration of the water system or service, and any part thereof and for the refunding of any water bonds. It may also furnish and supply water

to owners and occupants of property lying outside of, but adjacent to, the city of Auburn.

§ 126. On and after January first, nineteen hundred and twenty-one, that branch of the city government pertaining to the control, management and operation of the water system of the city shall be known as the water department. The city manager shall be the administrative head of such department. He shall appoint such officers and employees as the council decides are needful or essential in the conduct and management of such department, at salaries to be fixed by the council; and may, from time to time, change or remove any such appointees or employees. The civil service rules and regulations shall apply so far as practicable to all positions in this department.

§ 127. All the present rules, regulations and ordinances of the water board are continued in full force and effect until amended, modified or repealed. The council may provide for punishing the violation of any ordinance, by-law, or regulation, by fine or imprisonment, or both, and may maintain suit in the name of the city to restrain, by injunction, any violation thereof.

§ 128. The water rates, rentals and charges established and fixed by the water board, or hereafter established and fixed, shall be continued until changed or modified. On and after the first day of January, nineteen hundred and twenty-one, the council may determine and fix all rates, rents and charges and change or amend the same, from time to time; and shall have power to arrange and direct, by ordinance, that all delinquent water rates, rentals and charges may be added to the annual city tax on the property to or for which such water was furnished, or service rendered, after a hearing thereon to the owner of such property; the council shall have power to provide for such hearing and to adopt rules and make provisions to govern and control the same. The income from water rates, rents and charges, and the proceeds from the sale of water bonds, shall be kept separate and apart from other city funds and revenues, and shall be used only for the upkeep, maintenance, extension and benefit of the water system, including the sinking fund for the retirement of water bonds, and the payment of bonds.

§ 129. Subject to the continuance in office of the present water board until January first, nineteen hundred and twenty-one, as herein provided, and its use, exercise and control of all the property and rights in this section mentioned or described, in the management and operation of said water

system until noon of the first day of January, nineteen hundred and twenty-one, all property and rights acquired, or hereafter acquired by the water board in the management and operation of such water system, under chapter four hundred and seventy-nine of the laws of eighteen hundred and ninety-two, as revised and supplemented by chapter thirty-six of the laws of eighteen hundred and ninety-four, as amended, shall be, and continue to be, the property of the city of Auburn in whatever name such property or rights were or may be acquired; and the city of Auburn shall succeed to all property and rights owned or possessed by the said water board, and be and become the owner thereof. All moneys, accounts, funds and other property of said water board, as the same exist and are on January first, nineteen hundred and twenty-one, and in whatever name acquired or deposited, including the sinking fund for the retirement of water bonds, shall belong to the city of Auburn; and shall be transferred and paid over, or disbursed, by any holder, bank, banking house or trust company, with whom deposited, or any custodian thereof, as the council shall by ordinance, or resolution, direct. The council shall provide for the payment of all obligations of the said water board, owing on January first, nineteen hundred and twenty-one, including water bonds, and for the maintenance of the sinking fund for the retirement of water bonds, as required by said repealed water acts. Before retiring from office, as herein provided, the said water board shall prepare suitable inventories and statements of all property and accounts, and of all obligations of every kind, and file the same with the city manager.

§ 130. Chapter four hundred and seventy-nine of the laws of eighteen hundred and ninety-two, as amended and supplemented by chapter thirty-six of the laws of eighteen hundred and ninety-four, and said chapter thirty-six of the laws of eighteen hundred and ninety-four, as amended, are, and each of said acts is, hereby repealed; except, however, that the water board as therein constituted shall be, and is by this act, continued in office until noon of January first, nineteen hundred and twenty-one, and shall possess all the powers and perform all the duties and functions prescribed in said repealed acts; it being the purpose hereby to continue the said water board until noon of January first, nineteen hundred and twenty-one, at which time it shall be abolished and the council of the city of Auburn and the city manager shall

assume and exercise all of the powers, and perform and discharge all of the duties, herein given and fixed.

ARTICLE XIII.

THE SOULE CEMETERY.

§ 131. The cemetery of the city of Auburn constituted under chapter fifty-seven of the laws of eighteen hundred and eighty, and known as The Soule Cemetery, is hereby continued, and the city is hereby authorized and empowered to hold and to continue to hold all the lands, rights and property acquired by it in connection with such cemetery, and generally to manage and provide for such cemetery. All lands and rights acquired by the city, and all sales and conveyances of lots in such cemetery for burial purposes, pursuant to the provisions of such act, are hereby recognized, ratified and confirmed.

§ 132. All the lands and rights included within such cemetery, whether acquired under, or pursuant to said chapter fifty-seven of the laws of eighteen hundred and eighty, or otherwise, shall continue to be deemed, and held, as a part of the territory of such city, in addition to any other lands herein described as constituting the city of Auburn. All of such land shall continue to be, and be, under the jurisdiction of the city, and be subject to the jurisdiction of its courts and officers as fully to all intents and purposes as any part of said city; and all the provisions of this act shall apply thereto, so far as practicable or available. Any additional land contiguous to such cemetery, hereafter acquired for the purposes of such cemetery, and used in connection therewith, shall likewise be deemed, held to be, and be, a part of said city, and be subject in the same manner, as such cemetery lands, to the jurisdiction and control of the city and its officers.

§ 133. All such cemetery lands and property shall be exempt from all taxation, including school, highway and local improvement assessments.

§ 134. The council shall provide for the continuance of such cemetery, and for its maintenance, care, management, control, operation, up-keep, preservation and protection; and to this end, it shall have power to provide for the appointment of a commission (one member of which may be a resident of the town of Sennett), or such other agency as it deems advisable, to administer, supervise and direct its

affairs, subject to control by the council; to provide for the erection, construction and maintenance of all necessary or desirable buildings, vaults, roadways, paths, and fences; and for the planting of shrubs, trees, and grass, and for other ornamentation; to provide for surveys, maps, and plats, and to make division into lot and parcels; to sell lots and plats for burial purposes, and fix the price thereof; to permit burial without charge, where means to pay are not available; to make appropriation in the annual tax budget for its support and upkeep, needed repairs to grounds, buildings and approaches, and to give effect to any of the powers, or duties herein specified; to provide for an accurate system of accounting covering all financial transactions of the cemetery; to accept and receive money, funds and property for such cemetery, in trust or otherwise, and to hold and administer the same; to regulate the use of such cemetery, interments, disinterments, erection of structures, monuments, fences, and markers; and generally to provide for the protection of such cemetery and its property, and the property and rights of individual lot owners; to regulate and control the uses thereof; and to prohibit the use thereof for anything other than for cemetery purposes. The council shall have power to exercise any of the foregoing powers, rights, and duties by ordinance, rules and regulations, and to provide for the violation thereof by fine or imprisonment, or both. All provisions of this act in reference to ordinances shall apply to any such cemetery ordinance.

§ 135. Upon the passage of this act, the terms of office of the present commissioners of such cemetery shall expire. Chapter fifty-seven of the laws of eighteen hundred and eighty, excepting section one, and the last sentence of section seven, is hereby repealed, but such repeal shall in no manner affect, abridge, alter or impair any right of the city therein, or any right or interest acquired by any person in or to said cemetery, or to any lot therein, or in or to any structure or property erected thereon.

ARTICLE XIV.

CITY COURTS.

§ 136. The recorder shall hear all the complaints made to him upon oath, against any person charged with the commission, within said city, of a felony, misdemeanor, statutory offense or violation of any ordinance and may compel the at-

tendance of witnesses and examine them on oath, upon the hearing of such complaint. If he has reason to believe from such examination, that the offense has been committed by the person charged, he shall issue his warrant, in due form of law, for the apprehension of the offender. The recorder shall have power to hear, try and determine all violations of city ordinances, and of the provisions of the city charter, to impose the punishments prescribed therefor, and to sentence persons convicted thereof to imprisonment in the Cayuga county jail. The recorder shall have power to hold courts of special sessions within said city and shall possess the powers and jurisdiction and be subject to the liabilities of justice of the peace of towns, and may be removed in like manner. Subject to the power of removal provided by sections fifty-seven and fifty-eight of the code of criminal procedure, the recorder shall have in the first instance, exclusive jurisdiction, to hear, try and determine all offenses committed within the city of Auburn, triable in courts of special sessions and shall have the power and jurisdiction conferred upon such courts by section fifty-six of the code of criminal procedure; except that said powers and jurisdiction shall not extend to crimes committed without the city of Auburn; and the recorder or other officer acting for any reason in his place shall have power to impose any sentence, punishment, fine, imprisonment, or both, as is provided in such cases by the provisions of this act, of the penal code or of special statutes of the state. The recorder shall have exclusive jurisdiction as against the city judge and justice of the peace within the city, in all criminal matters and violation of city ordinances. All courts held by him, including such as have heretofore been denominated courts of special sessions, shall be known as the recorder's court. The recorder may sentence any person convicted before him and fined for a violation of any ordinance to imprisonment in the county jail of Cayuga county until the fine be paid, not to exceed the period of imprisonment named in such ordinance. In any case where a person is convicted in said recorder's court, the recorder may, in his discretion, where facts in mitigation of punishment exist, suspend sentence during the good behavior of the person so convicted; and may at any time thereafter within one year from the date of such conviction, summarily, upon proof to his satisfaction of misconduct on the part of such convicted person, impose sentence, which shall thereupon be executed. The jurisdiction of said recorder's court over such convicted person and over any such criminal action

or proceeding shall continue until the above mentioned one year shall have elapsed or the sentence shall have been imposed and executed as prescribed herein. If at the time of any conviction in said recorder's court the county of Cayuga has a contract with any penal institution for the keeping of prisoners, the recorder may sentence the persons so convicted (when the imprisonment is for sixty days or more) to be imprisoned in such penal institution instead of in said county jail. He shall receive quarterly from the sheriff of the county all moneys paid to the said sheriff for fines imposed by said recorder, which together with all other money received by him for like purposes, he shall pay over to the city treasurer at least weekly. He shall report in detail to the council, at its first regular meeting in each quarter, the names of all persons convicted and sentenced by him with the date, offense charged, convictions, and the penalty imposed, respectively, and all moneys received by him on account thereof, accompanied by a receipt from the city treasurer therefor.

§ 137. In case of the absence or inability of the recorder to act, or of a vacancy in said office, the city judge, or, if he shall be unable or decline to act, then the justices of the peace, shall perform the duties, possess the powers and jurisdiction, and be subject to the liabilities of the recorder until he shall resume the duties of his office or until such vacancy shall have been filled in accordance with the provisions of this act. The city judge or justice of the peace shall continue to have jurisdiction in any matter over which he shall, as aforesaid, have acquired it, until he shall have finally disposed of the same. In such cases the justice of the peace shall, after the recorder resumes the duty of his office, receive the same fees as provided for justices of the peace, by law in criminal cases, to be audited and paid as the council may provide.

§ 138. There shall be a court of civil jurisdiction to be denominated the "city court of the city of Auburn," which shall be held by the city judge. Said court shall have jurisdiction in civil actions and proceedings cognizable by law in justices' courts of towns, whether commenced by warrant, attachment, summons or otherwise, or whether arising on contract or otherwise, in which the sum demanded, or the value of the property sought to be recovered shall not exceed one thousand dollars, and in which all the defendants reside, or at the time of the commencement of such action or proceeding are within the city of Auburn; except that in an action against two or more defendants jointly liable upon contract,

service upon any of the defendants within said city shall confer jurisdiction upon said court, and if the plaintiff recover judgment, it shall be entered against all the defendants thus jointly indebted, so far only as that it may be enforced against the joint property of all, and the separate property of the defendants served, and if they are subject to arrest, against the persons of the defendants served. In an action in which the plaintiff is entitled to a warrant of attachment as provided by law, the same may be issued by said court to reach the property of the defendant situated within the city of Auburn, and not exempt by law, notwithstanding the defendant may not be a resident of or within said city, so as to be personally served; and said court shall have jurisdiction in said proceedings, over the property so attached, to render judgment, issue execution and sell the same. Said court shall also have the same jurisdiction in summary proceedings to recover the possession of real property, as is possessed by the officers named in section twenty-two hundred and thirty-four of the code of civil procedure, where the property is situated within the city of Auburn. Said jurisdiction in summary proceedings to recover the possession of real property is not to be exclusive as against the justice of the peace, but concurrent therewith. Said actions or proceedings may be commenced by any resident of said county, or by a nonresident thereof, and the process, pleadings, practices, judgments and all proceedings thereon shall be the same as in justices' courts of towns, except as is or hereafter may be otherwise provided by law. Said court shall have jurisdiction of any action or proceeding brought against any domestic transportation corporation and any person, association or corporation designated in sections twenty-eight hundred and seventy-nine, twenty-eight hundred and eighty and twenty-eight hundred and eighty-one, of the code of civil procedure. Such defendant may be served by delivering a copy of the summons, or the mandate, to one of the persons specified in said sections twenty-eight hundred and seventy-nine, twenty-eight hundred and eighty and twenty-eight hundred and eighty-one of the code of civil procedure, according to the provisions thereof, within the city of Auburn. Any such defendant so served is deemed for the purpose of this act a resident, and at the time of the commencement of such action or proceeding to be, within said city of Auburn. The hour named in any process for the return thereof, or for the appearance of the defendant, or to which any action or proceeding in said court

shall be adjourned, shall be the time at which such action or proceeding shall be called.

§ 139. Process shall be made returnable before said court by its proper title and may be signed and issued by the city judge or recorder. A summons commencing an action in said court, in substantially the following form, exclusive of the title of the action and the signature (the blanks being properly filled), namely:

“To the above-named defendant:

“You are hereby summoned to appear before the city court of the city of Auburn, at its rooms in the city hall in said city, on the day of at o'clock, in the noon, there to answer the complaint of the above-named plaintiff in a civil action.

“Dated Auburn, New York, day of , 19 .” may be issued by an attorney admitted to practice in the courts of the state of New York, with the same force and effect in all things as if issued and signed by the city judge. Such summons shall be subscribed by the plaintiff's attorney and made returnable at such an hour and on one of such days of the week as shall be designated by the city judge by order, as a regular return day and hour, and shall be filed with proof of service thereof, in the office of the city judge on or before the day on which it is made returnable. This provision in no manner affects the power of the city judge or recorder to issue the summons in the form and manner provided by this title but is in addition thereto. The city judge shall have the powers and be subject to the liabilities (including removal from office) of justices of the peace in towns. In case of his absence or inability to act, or in case of a vacancy in said office, the recorder or the justice of the peace upon the written request of said city judge or of the mayor (if the city judge shall not so request, or in case of a vacancy in said office) shall hold said court, and shall possess all the powers of city judge in said city. The person so holding said court may hear, try and determine any case or proceeding over which said court shall have jurisdiction; but immediately upon the return of and the resumption of his duties by the city judge, or when said vacancy shall have been filled, the said city judge shall have jurisdiction to the exclusion of the said recorder and the justice of the peace over any undetermined action or proceeding in said court notwithstanding that either the recorder or the justice of the peace may have acted thereupon by reason of the absence or other disability of the city judge or by reason of said vacancy,

as aforesaid; except where testimony shall have been taken and heard by the recorder or the justice of the peace in any such action or proceeding, in which case said recorder or justice of the peace shall retain jurisdiction thereof and shall finally dispose of the same.

§ 140. In an action or proceeding brought in said city court, in which a bond or undertaking is required by law to be given by or on the part of either party, the same shall be with one or more sureties approved by the city judge and shall be in a sum or penalty of not less than fifty dollars, nor more than double the amount claimed by the plaintiff, in the discretion of the city judge. The pleadings in said court shall be in writing, and shall be subscribed by the parties or their attorneys. The complaint may be verified in the manner provided by the code of civil procedure for the verification of pleadings in courts of record, and when so verified the subsequent pleadings (except a demurrer) shall be likewise verified. Attorneys who sign pleadings must be such as are admitted to practice in the courts of this state; they shall in no case be required to prove their authority to appear for any party in said city court. In an action commenced in said city court by summons, the complaint may, at the option of the plaintiff or his attorney be served therewith; but in all cases, whether commenced by summons or otherwise, the same shall be filed in said court on or before the time fixed for the return of the process. The summons or summons and complaint may be served by any person of full age, not a party to the action, with the same force and effect in all things, as if served by a constable, and such person is entitled to the same fee for his service. When served by a constable, proof thereof may be made by certificate; when served by another person, proof thereof shall be by affidavit. A subpoena issued out of the city court shall be served by delivering to the witness a copy thereof and at the same time tendering to him his lawful fees for one day's attendance as a witness. A subpoena may be issued by the city judge or by the attorney, qualified to issue a summons under this act, of the party desiring to call the witness named in such subpoena; and when signed by such attorney the subpoena shall have the same force and effect as if signed and issued by the city judge.

§ 141. In an action arising on contract for the recovery of money only, where the complaint shall be verified and the defendant shall fail to appear, or having appeared, shall fail to answer and defend, the court upon motion of the plaintiff

or his attorney, and upon filing the summons and complain with proof of the service thereof, or with proof of the service of the summons, as in the last preceding section provided, shall forthwith, without further proof, enter judgment for the amount demanded in the complaint with costs. In any action in said court, in which the defendant does not appear, or having appeared, does not answer and defend, the plaintiff shall recover besides disbursements, costs as follows: For all proceedings, in case the amount does not exceed fifteen dollars, twenty per centum of the amount recovered; in case the amount be more than fifteen dollars and does not exceed fifty dollars, three dollars; in case the amount be more than fifty dollars and does not exceed one hundred dollars, five dollars; in case the amount be more than one hundred dollars and does not exceed two hundred dollars, ten dollars; in case the amount be more than two hundred dollars, fifteen dollars. Costs as herein provided shall accrue upon the commencement of the action. In any action in said court where the plaintiff before trial, withdraws or discontinues, or his complaint is dismissed, the defendant, upon motion at the time of dismissal, shall recover for his costs, besides disbursements, the sum of three dollars. Where issue is joined and trial had, the plaintiff shall recover for his costs, besides disbursements, the same sums, to be determined by the above provisions, as would be recovered where the defendant did not appear, or having appeared, did not answer and defend, as above provided; and in addition thereto, the plaintiff shall recover an additional sum equal to ten per centum of the sum or the value of the property recovered, exclusive of costs; which additional sum, however, shall in no case exceed fifteen dollars. And in every case where issue is joined and trial had, and the sum or value of the property recovered by the plaintiff, exclusive of costs and disbursements, shall be fifteen dollars or less, the plaintiff shall recover, for his costs, besides disbursements, the sum of five dollars. In any action in which judgment shall be rendered against the plaintiff in favor of the defendant, or of non-suit, after a trial had, the defendant shall recover from the plaintiff, to be included in the judgment, besides disbursements, five dollars costs; and the court, in its discretion, may allow an additional sum not exceeding fifteen dollars. In any action in which judgment shall be rendered against the plaintiff in favor of the defendant upon a counterclaim or set-off the defendant shall be entitled to recover from the plaintiff, for his costs, besides disbursements, to be included in the judgment, the same sum to

which a plaintiff recovering judgment in an action, for an amount equal to that awarded defendant on such a counter-claim or set-off would be entitled, as hereinbefore prescribed, according to the amount recovered. For the purposes of this section, a trial shall be deemed to have been had in a case where such trial has been commenced and testimony has been taken. If the sum claimed or the value of the property sought to be recovered by the plaintiff exceeds fifty dollars and the defendant shall make an offer of judgment in the manner and at the time provided by law therefor in justices' courts, which offer shall be rejected, and if the plaintiff shall fail to obtain judgment for a greater amount exclusive of costs than has been specified in the offer, he shall not recover costs but the defendant shall recover the sum of ten dollars costs together with his disbursements accruing subsequent to the offer, which may be set off against any recovery had and judgment entered only for the remainder. Where a summary proceeding to recover the possession of real property is brought, as heretofore provided, the party in whose favor the final order therein is made shall recover, besides his disbursements, the sum of five dollars as costs. All disbursements allowed by law to be taxed in any action or proceeding in said court including constables' fees, whether incurred on the part of the plaintiff or defendant shall be included as disbursements in the judgment, but shall in no case exceed fifteen dollars.

§ 142. The city judge shall neither demand nor receive for the use of the city any fees whatever. Constables shall receive and be entitled to the same fees in actions or proceedings in said court as are now allowed by law, except as herein otherwise prescribed, namely: For serving a summons, or summons and complaint within said city, fifty cents; for serving a civil warrant within said city, and notifying the plaintiff, seventy-five cents; for serving a venire, one dollar and fifty cents; for serving a subpoena they shall, in addition to fees now allowed by law, be entitled to the same mileage as for the service of a summons. And in case service of summons and complaint is caused to be served by a party to the action, the fees allowed to constables may be collected by said party on execution.

§ 143. On the third Tuesday in May, nineteen hundred and twenty-two, and in every third year thereafter, the mayor, city judge, recorder and justice of the peace, or any three of them shall meet at the office of the county clerk of Cayuga county and shall write the names of all persons on the jury

list last made out, signed and filed by the officers of the town of Auburn in said clerk's office, with their additions, on separate pieces of papers and deposit the same in a box to be provided for that purpose, and shall draw therefrom six hundred of said pieces of papers; a list of the names of persons so drawn, with their additions, shall be made and certified by the officers drawing the same and shall be filed in the office of the city clerk. As soon as such list shall be filed as aforesaid, the city judge, recorder and justice of the peace shall cause the same to be published in the official paper or papers of said city, for three successive days, together with a notice that on a day and hour to be named therein, which shall not be less than ten days from the time of the first publication of said notice, they will attend at the city court room to correct the same and hear evidence of exemption. On such day they shall receive evidence of exemption in the same manner as authorized in courts of record and no juror who does not then furnish proof of a legal exemption shall thereafter be allowed to claim an exemption when he shall be drawn and summoned for jury duty. This provision shall not apply to such persons as may become exempt after the final completion of such jury list. The names of the persons found exempt by law shall be struck from the list and the ground thereof noted thereon. When the list shall have been corrected and completed, it, together with the certificate of that fact, signed by the city judge, recorder and justice of the peace, and annexed thereto, shall be again filed in the office of the city clerk who shall forthwith make and certify three copies of said corrected list, with the certificate annexed, and deposit them, one with the city judge, one with the recorder and one with the justice of the peace. Immediately thereafter the city judge, recorder and justice of the peace shall each write upon separate pieces of paper, as nearly of a size as may be, the names of the persons appearing on said corrected list and place them in a box, or other receptacle provided for that purpose to be known as "jury box number one."

§ 114. Whenever a jury shall be demanded in any action or proceeding in which the party so demanding is entitled to the same, in either the city court of the city of Auburn, the recorder's court, or the court of the justice of the peace, the presiding officer of such court shall forthwith openly draw from jury box number one, the names of eighteen persons, not then drawn or impanelled as jurors in actions then pending, who shall be summoned by venire issued by the pre-

siding officer of said court and from whom a jury shall be drawn in the same manner as juries are required to be drawn in justices' courts of towns. Such presiding officer may order the constable or other officer in attendance to summon from the bystanders, or from the city at large, so many persons qualified to serve as jurors as shall be sufficient to form a jury whenever a sufficient number of jurors duly drawn and summoned do not appear or shall not be required to serve; the person so drawn shall receive the same fees as jurors in justices' courts to be paid by the party who shall call for a jury; whenever a jury is drawn in an action or proceeding in either court, the names of such jurors with the time of trial of such action or proceeding, shall be certified to each of the other courts, by the officer by whom they are drawn. Each of said courts may excuse any person so summoned from serving therein as a juror, when it shall appear that he is summoned in any other court for the same day. After the adjournment of the court at which a jury trial has been had, the presiding officer of said court must deposit the ballots containing the names of those who attended and served in another box to be provided and kept for that purpose, which shall be known as "jury box number two." The ballots containing the names of those who did not appear must be returned to jury box number one. If at any time there is not a sufficient number of ballots remaining in jury box number one, the presiding officer, upon drawing all the ballots therein, must draw the necessary number from jury box number two, and thereafter continue to draw from that box until the ballots therein are exhausted, (returning the names of jurors who served to jury box number one), and must continue to so draw from said boxes alternately until a new list of jurors is deposited in his office as provided herein. The provisions of the code of civil procedure relating to selecting, drawing and procuring the attendance of jurors in justices' courts and the provisions of the code of criminal procedure relating to the selection, drawing and procuring the attendance of jurors in courts of special sessions and police courts, so far as they conflict with the provisions of this act, shall not apply to the city court of the city of Auburn, the recorder's court or the court held by the justice of the peace.

§ 145. There shall be allowed to each trial juror serving upon the trial of an action or proceeding in either the city court or the recorder's court, in addition to the fees prescribed in the code of civil procedure, the sum of two dollars and seventy-five cents, which sum shall be paid by the city of

Auburn in the same manner as other claims for a fixed salary against the city upon the certificate of the judge or clerk stating that the juror actually served upon the trial of the action or proceeding. There shall be including in the annual tax budget sums sufficient to provide such compensation to jurors in addition to the other expenses of such courts.

§ 146. The city judge shall have power from time to time to make, modify and revoke rules of practice for said city court, not in conflict with the provisions of law at the time existing; and such rules, modifications and revocations shall take effect when a copy thereof together with an appropriate order shall be signed by the city judge and entered and filed by him in said court. The city judge shall have power at any time after the commencement of an action, proceeding or hearing, in his discretion, for cause shown, to grant one or more adjournments therein for any purpose for such time and upon such terms as he may deem just; unless the defendant has been arrested, in which case no adjournments shall be had except upon the consent or the request of the defendant. But nothing herein contained shall be construed to deprive a party of the right to any adjournment to which he may be entitled by the provisions of the code of civil procedure relating to justices' courts. The city judge may take informations, issue subpoenas, examine witnesses upon oath, take depositions, and sign and issue criminal warrants; and the city judge may hear complaints and issue warrants for violation of the city ordinances and all other crimes in the same manner as the recorder, but the same shall be entitled in and made returnable before the recorder's court. The recorder, city judge and justice of the peace shall have power to punish for contempt, the same as justices of the peace in towns, and either of them may command the services of any constable of said city to enforce authority and maintain peace while holding court. The city judge, while the city court is in session, shall also have the same powers to preserve order and punish for contempt as are possessed by courts and judges of courts of record. Sections seven hundred and fifty, seven hundred and fifty-one and seven hundred and fifty-two of the judiciary law are hereby made applicable to said court. Provided, however, that an appeal may be taken from an order adjudging a person in contempt to the county court of Cayuga county in the same manner as an appeal from a judgment. Pending the determination of such appeal, the person so adjudged in contempt, if he has been committed, may be admitted to bail by the city judge

or by the county judge of Cayuga county in such an amount and by an undertaking in such form and terms and with such surety or sureties as shall be approved by the judge to whom application for admission to bail is made. The city judge and recorder are hereby authorized and empowered to appoint, and at pleasure remove, a stenographer, who shall act as clerk of the city court and of the recorder's court; such appointment or removal to take effect upon the making and filing in the office of the city clerk by the city judge and recorder of a certificate thereof designating the person so appointed or removed. Said stenographer shall perform such clerical and ministerial duties as the city judge and recorder shall prescribe, and such other work as may be required by the city manager. He shall receive a salary to be fixed, increased, and diminished as prescribed in this act.

§ 147. Except as hereinafter otherwise provided, the city court shall have the power to open defaults and set aside judgments rendered and entered therein, and executions issued thereon, upon such terms as may be just, in a case where the defendant shall fail to appear on the return day of process, or on any adjourned day, where it is shown that manifest injustice has been done, and the defendant satisfactorily excuses his default; but no greater terms shall be imposed than the payment of the costs included in the judgment and the sum of three dollars for opposing the motion. The application therefor shall be founded upon affidavits and shall be made within three months from the entry of such judgment, unless a notice of entry of such judgment and the amount thereof shall be served upon the defendant or his attorney, in which event such application shall be made within twenty days from the date of such service. Upon presentation of such application the city judge shall issue an order returnable in not less than five nor more than eight days requiring plaintiff to show cause, if any, why said judgment should not be set aside. A copy of said order, and of the papers upon which the same is granted, shall be served upon the plaintiff, or his attorney, if one shall have appeared in the action, not less than three days prior to the return day thereof. Pending such application and the determination thereof, the city judge may stay proceedings under any execution which shall have been issued. When a judgment shall be set aside the action shall proceed as though no judgment had been rendered. In such a case, where an execution has been issued by the city judge, and a levy made thereunder, the same may in the discretion of the city judge

be allowed to stand as a security for the satisfaction of any judgment the plaintiff may finally recover. Where a transcript of a judgment of said city court shall have been filed in a case provided for in this section, the county court of Cayuga county shall have power and authority to open the default and set aside such judgment and all proceedings thereon, and to order a new trial in said city court upon such terms as may be just. The practice in said county court upon such application shall be the same as is herein provided for like proceedings in said city court, except that the defendant must show that prior to the filing of such transcript no application was made to the city court for like relief. The county court may stay proceedings under any execution issued upon said judgment pending such application. The judgment and any execution and levy thereunder may be allowed to stand as a security for the satisfaction of any judgment the plaintiff may finally recover in case a new trial shall be ordered in said city court. The county court shall at all times be open for the presentation, hearing and determination, of any case arising under this section. The provisions of this section are in addition to the right of appeal as now provided by law.

§ 148. Judgment shall be rendered in said city court in the following cases forthwith:

1. Where the plaintiff is nonsuited.
2. Where the plaintiff discontinues or withdraws his action.
3. Where judgment is confessed.
4. Where a verdict is rendered by a jury in favor of either party.
5. Where the defendant is in custody at the time of the final submission of the cause.
6. Where a judgment is rendered upon an offer made by the defendant and duly accepted.
7. In all other cases the city judge shall render judgment within ten days after the cause is finally submitted; but the parties or their attorneys may, by written stipulation, extend such time.

§ 149. The justice of the peace shall have jurisdiction in civil actions and proceedings cognizable by law in justices' courts of towns, whether commenced by warrant, attachment, summons or otherwise, or whether on contract or otherwise, except that within the city of Auburn the city court shall have exclusive jurisdiction as against said justice of the peace, as provided by this act; but in a case where a sum-

mons shall have been issued by said justice of the peace against a resident of Cayuga county outside the city of Auburn, such summons may nevertheless be served upon such defendant within said city of Auburn, and the process, pleadings, practice, costs, judgments, and all proceedings thereon shall be the same as in justices' courts in towns. He shall, when thereunto required, perform the duties of either the city judge or recorder; and shall then have the powers and discharge the duties of those officers respectively, and shall be paid for his services (except as by this act otherwise provided), by the officer whose place shall have been so filled by him. When the city judge is disqualified from acting in, or when he is unable to dispose of any cause or causes pending in said city court, he may direct the justice of the peace to hold a city court, and to try any of such pending case or cases therein as he may designate, which direction shall be in writing, and shall also certify and deliver the pleadings and proceedings therein to said justice and thereupon the said justice shall proceed to try and determine said designated actions, and while so engaged shall have the same power and jurisdiction therein as the city judge, and in such cases the same costs shall be recovered as are provided by law to be recovered in said city court, except that no fees for the use of the city shall be taxed. The justice of the peace when so acting shall be entitled to demand and receive for his own use the fees prescribed by law for justices of the peace, to be paid by the parties to the actions he shall so try.

§ 150. The council shall provide in the city hall a suitable place for holding said recorder's court and said city court, and shall furnish heat and light for the same, and provide necessary blank books, blanks and stationery therefor. Said city court shall be opened for business each day (except Sundays and legal holidays) at nine o'clock in the forenoon, and both the city judge and the recorder shall have their offices in the city hall and not elsewhere.

§ 151. In civil actions, appeals from any judgment rendered in the city court or recorder's court, or by the justice of the peace, may be taken to the county court of the county of Cayuga, within the time and in the same manner provided by law for appeals from judgments rendered by justices of the peace in towns, and all provisions of law relating to appeals from such judgments shall apply thereto. The city judge upon receiving the costs in the judgment appealed from, shall pay the same to the party entitled thereto, or his attorney, forthwith, and shall take a receipt therefor.

§ 152. Any conviction by the recorder's court may be reviewed in the same manner as convictions before courts of special sessions of the peace in towns; and proceedings thereon may be stayed by the county judge of Cayuga county pending such review.

§ 153. The city judge shall not be required to make or keep any record of such actions or proceedings in said court as may be settled before judgment, withdrawn or discontinued. All dockets and other books kept by the recorder, city judge or justice of the peace, shall at all times be subject to examination by the legal representative of the city council and the county judge of Cayuga county, and shall be produced when directed, and for a disobedience to produce the same, the county judge may punish either of said officers in the same manner as disobedience to orders made by said judge are punished.

§ 154. It shall be the duty of the recorder, on the first Monday in May in each year to deliver to the city manager an account, under oath, of all money, goods or merchandise, remaining unclaimed in his office or the police office, and immediately thereafter give notice by publication, three times in the daily newspapers in said city, to all persons interested in or claiming such property, that unless claimed by the owner, with satisfactory proof of such ownership, before a specified day, not less than one week, the same will be sold at auction to the highest bidder, on a day and place specified in such notice. All property, except money, remaining unclaimed, shall be sold under the direction of the recorder, at the time named in such notice, except perishable property or property which shall be expensive to keep which may be sold at any time at public auction after such notice as to the said recorder shall seem proper. After deducting the expenses of advertising the sale, the recorder shall immediately pay to the city treasurer the proceeds thereof, together with all such money remaining unclaimed in his hands.

§ 155. Upon satisfactory proof of ownership, the recorder shall deliver to the owner any property, of which he shall obtain possession, on receiving the necessary expenses of preserving the same, unless the district attorney shall direct that stolen property be held, in which case all stolen property in the hands of the recorder shall remain unsold and undelivered, for the purpose of being used as evidence.

ARTICLE XV.

MISCELLANEOUS.

§ 156. Every person elected or appointed to any office under this act, who shall be sued for any act done or commenced by him by virtue of his office, and who shall have final judgment rendered in his favor, whereby he shall be entitled to costs, shall recover twice the amount of his taxed costs.

§ 157. The city of Auburn shall not be liable for damages or injuries sustained by any person, in consequence of any sidewalk, crosswalk or street, in said city being defective, out of repair, dangerous from any cause, obstructed by snow or ice, or in any other way or manner, unless actual notice of the defective, dangerous, unsafe or obstructed condition of such sidewalk shall have been given to the city manager at least forty-eight hours previous to such damage or injury. No action shall be maintained against the city of Auburn for any injury received or damage sustained by reason of the negligence of said city or any of its departments, boards, officers, agents or employees, unless written notice specifying the time, place and cause of such injury or damage, and of an intention to commence an action against the city therefor, shall have been filed with the corporation counsel within sixty days after such injury shall have been received or damages sustained, if notice be filed by or in behalf of the person injured, or sustaining damage; and within six months if presented by his or her legal representatives; nor unless such action shall have been commenced within one year after such injury was received or damage sustained.

§ 158. No person shall be an incompetent judge, recorder, justice or juror by reason of his being an inhabitant or freeholder in the city of Auburn, in any action or proceeding in which said city is an interested party.

§ 159. The said city, except as is otherwise in this act provided, shall be considered one of the towns of Cayuga county, The fees and expense of apprehending, examining, trying and committing offenders against any law of the state in said city, and of their confinement, properly chargeable against the county of Cayuga, shall be audited, allowed and paid by the board of supervisors of said county, in the same manner as if such expenses had been incurred in any town in said county of Cayuga. To facilitate the presentation of the claim of the city against the county of Cayuga for such fees and expense, the recorder shall keep an accurate record of all felony and other cases which are properly chargeable against

the county of Cayuga, and of the fees and expense of examining, trying and committing persons under such charges; and the head of the police department shall keep a like record of the fees and expense of apprehending all persons so charged. The said city of Auburn shall be considered a town for the purposes specified in the judiciary law, respecting the selecting, drawing and procuring of jurors and the supervisors and assessors of said city shall execute the duties of supervisors, town clerk and assessors of a town, as prescribed by said law, and a duplicate list of jurors selected by them, shall be filed in the office of the city clerk of said city.

§ 160. When corporations, associations, co-partners, joint tenants or tenants in common, are to be served with a notice under any provision of this act, or under the direction of the council, it shall be deemed a sufficient, valid and legal service of such notice to serve a copy thereof upon the president, cashier, treasurer, one of the directors, or the managing agent of such corporation or association, or upon any one of such co-partners, joint tenants or tenants in common.

§ 161. When filed in the office of the city clerk, an affidavit of service of any notice, either personally or by mail, as required, or the affidavit of publication made by the publisher, his clerk, editor or foreman, showing the required publication, shall be presumptive evidence of such service or publication, as the case may be, in all courts and places; a certified copy of such affidavit made by the city clerk may be read in evidence with like force and effect as the original on file in his office.

§ 162. Every act, ordinance, by-law, public regulation, resolution or proceeding of the council of the city of Auburn, may be read in evidence in all courts and places in this state either:

1. From the record of the proceedings of the council.
2. From a copy of such act, ordinance, by-law, public regulation, resolution or proceeding, certified by the mayor or city clerk, with the seal of the city affixed; or
3. From the printed volume of ordinances, by-laws and public regulations printed by authority of the council.

§ 163. All elective officers of the city in office at the time this act takes effect shall be continued for the balance of the terms for which elected respectively, except as herein specially provided; all other officers and employees in the service of the city at the time of the adoption of this act shall be continued the same as though originally appointed hereunder.

§ 164. All ordinances, regulations and by-laws of the

city, including those established and adopted by the water board of the city, in force at the time of the adoption of this act, and not inconsistent herewith, are continued in full force and effect. Any ordinance, regulation or rule inconsistent with the provisions of this act is hereby repealed.

§ 165. Wherever in this act it is provided that any act or thing shall be done by, or any powers are conferred or duties imposed upon, any officer, for whom specific provision is not made either in this act, or in the optional city government law, then such act or thing shall be done by, such powers shall be conferred and duties imposed upon, such officer as may be appointed pursuant to ordinance, or otherwise, to perform like or similar duties. Wherever in any ordinance, regulation, resolution, or by-law, or in any statute, it is provided that any act or thing may be done or performed, or any license, permit or permission granted, by any body, officer, or head of department, the same may be done, performed or granted by such body, department or officer if continued under this act, or any ordinance; and if not so continued then by the body, department, or officer exercising and discharging like powers, functions or duties.

§ 166. Wherever it is provided in any franchise given by the city, or in any bond, contract, or other agreement in favor of the city, that any act or thing shall be done, or demand or notice made or given by any officer of the city therein named, such act may be done, or demand or notice made or given by the officer, body or department named, if there be such, and if not, by the officer, board or body possessing or discharging like powers, functions or duties. No such franchise, bond, contract or agreement shall in any manner be impaired by the passage of this act, but shall continue in full force, and the duties imposed and the powers conferred in and by such franchise, bond, contract or agreement may thereafter be exercised and discharged by the officer, body, or department upon whom is conferred like powers, functions or duties, under the provisions of this act or any ordinance, without regard to the official name or designation of such officer, body or department.

§ 167. The qualified voters of the city of Auburn having heretofore adopted the simplified form of government defined as plan C under the optional city government law, known as chapter four hundred and forty-four of the laws of nineteen hundred and fourteen, this act is intended, besides consolidating and revising the special acts relating to the city of Auburn and constituting its charter as there defined, to sup-

plement the provisions of such optional city government law, particularly in reference to the plan therein named and defined as plan C, and is to be considered and construed in connection therewith, in extension thereof, and as supplemental thereto; and the provisions of such general law shall be applicable to the city as far as may be. Nothing in this act contained shall be construed to affect any of the acts, or parts of acts, to regulate and improve the civil service of the state of New York. All acts and parts of acts inconsistent herewith are hereby repealed so far as they affect the city of Auburn, but no repeal of any law, or ordinance, shall affect any right already existing, or accrued, or any action or proceeding already instituted, or any benefit to which any person is entitled thereunder, or any liability incurred by reason of any violation thereof; nor shall such repeal, or the repeal of any of the laws or parts thereof enumerated in the schedule hereto attached, affect, impair, alter or change in any way the liability or obligation of the city upon any bonds or contracts issued or executed by it thereunder, or alter or change, or be deemed to alter or change the boundaries or territory of the city of Auburn. Subject to the qualification in this section expressed, the various acts enumerated in the schedule of acts hereto annexed are hereby repealed.

§ 168. This act shall take effect immediately.

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter	Part repealed.
1880.....	57.....	All but section 1 and last sentence of section 7.
1892.....	479.....	All.
1893.....	605.....	All.
1894.....	36.....	All.
1896.....	810.....	All.
1897.....	110.....	All.
1897.....	258.....	All.
1899.....	648.....	All.
1901.....	169.....	All.
1903.....	341.....	All.
1903.....	430.....	All.
1904.....	463.....	All.
1905.....	110.....	All.
1905.....	352.....	All.
1905.....	475.....	All.

Laws of	Chapter	Part repealed.
1906.....	185.....	All. but section 1.
1906.....	386.....	All.
1908.....	234.....	All.
1908.....	236.....	All.
1909.....	185.....	All.
1910.....	379.....	All.
1910.....	380.....	All.
1910.....	402.....	All.
1910.....	404.....	All.
1910.....	593.....	All.
1910.....	678.....	All.
1911.....	389.....	All.
1911.....	560.....	All.
1914.....	141.....	All.
1914.....	287.....	All.
1915.....	541.....	All.
1916.....	189.....	All.
1916.....	375.....	All.
1916.....	388.....	All.
1917.....	441.....	All.
1918.....	479.....	All.

STATE OF NEW YORK } ss:
Office of the Secretary of State }

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

FRANCIS M. HUGO,
Secretary of State.

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